

Advocates' Graduated Fee Scheme Dispute

NOTE FROM RESIDENT JUDGES OF THE NORTHERN CIRCUIT

We are aware that many sets of chambers on the Northern Circuit (in common with sets of chambers elsewhere in the country) are declining to accept instructions in publicly funded defence cases where the representation order was granted on or after 1 April 2018. As Resident Judges we express no view about the step being taken by those sets of chambers. Our concern is to protect the interests of all those who come before the Crown Court whether as defendant, complainant, witness or juror.

Whilst barristers' chambers are declining to accept instructions as set out above, we shall proceed as follows.

Prior to the PTPH

In any case where solicitors have a representation order the defence solicitors are asked to upload to the DCS the following information:

1. Whether the defendant will be represented at the PTPH and, if so, whether representation will be by counsel or solicitor.
2. The proposed plea(s) to the indictment.
3. The essential issues in the case if a trial is anticipated.

The information should be contained in a note uploaded to Section U of the digital file. This information should be provided the day prior to the PTPH hearing date.

At the PTPH

If the defendant's solicitor attends the PTPH s/he will be permitted to address the court and to engage in the PTPH process. The default position will be that arraignment will take place and the PTPH form will be completed and a trial date set.

If the defendant attends the PTPH unrepresented, the judge will deal with the hearing on a case by case basis. The default position will be that the defendant will be arraigned though it will be for the judge to assess the circumstances in each case. Case management orders will be made as appropriate in the circumstances of the case.

Days of action

In the event that the court is made aware of counsel refusing to attend on a particular day or days where the representation order pre-dates 1 April 2018 as part of a declared day of action or protest, we shall list all cases listed for trial on the relevant day for pre-trial review with the defendant(s) to attend. The listing in each case will be at least 72 hours in advance of the day of action or protest. The defendant(s) shall be represented at those hearings by a representative competent to advise the defendant(s).

Trials

In relation to trials where the representation order post-dates 1 April 2018 the defence solicitors are asked to upload to the DCS at Section U a note stating whether the defendant will be represented by an advocate at trial and, if not, the steps taken to obtain such representation at trial. This note should be uploaded no later than 14 days prior to the date fixed for trial.

If no such note is uploaded or if the court is informed that the defendant will not be represented by an advocate at trial, the case will be listed no later than 7 days prior to the date fixed for trial with the defendant to attend. The judge at that hearing will investigate the defendant's position in relation to representation and whether the trial can proceed as listed.

Committals for sentence and appeals

Defence solicitors are asked to upload to the DCS at Section U no later than 14 days prior to the date fixed for the hearing of the committal or the appeal a note stating whether the defendant will be represented by an advocate at the hearing.

If no such note is uploaded or if the court is informed that the defendant will not be represented by an advocate at the hearing, the case will be listed no later than 7 days prior to the date fixed for the hearing with the defendant to attend. The judge at that hearing will investigate the defendant's position in relation to representation and whether the case can proceed as listed.

HH Judge Goldstone QC - Liverpool

HH Judge Stockdale QC - Manchester Crown Square

HH Judge Mark Brown - Preston, Burnley and Barrow in Furness

HH Judge Dutton - Chester

HH Judge Potter – Manchester Minshull Street

HH Judge Clayson – Bolton

HH Judge Adkin - Carlisle