



Ministry
of Justice

The Right Honourable
Robert Buckland QC MP
Lord Chancellor & Secretary
of State for Justice

Nina Champion
Criminal Justice Alliance
Nina.Champion@criminaljusticealliance.org.uk

MoJ ref: ADR84420

27 January 2021

Dear Nina,

CUSTODY TIME LIMITS AND REMAND

Thank you for your letter of 23 September 2020 regarding custody time limits and remand. I apologise for the delay in responding to you.

Custody Time Limits

The COVID-19 pandemic has brought unprecedented challenges to our justice system. The vast majority of hearings are held face to face, and the courts are the first part of the system to be significantly impacted by social distancing. Work to increase the capacity of the Crown Court to hear jury trials is ongoing, however, it is not yet possible for courts to resume business as usual. We have now safely resumed jury trials, conducted tens of thousands of video and audio hearings, set up a network of Nightingale Courts and made changes to the physical court estate to enable social distancing. Despite the progress being made on increasing court capacity, social distancing requirements mean that it remains difficult to hear jury trials for all defendants within their Custody Time Limits (CTLs). The extension to CTLs is an essential part of our approach to recovery in the criminal courts and provides more certainty for victims and the public in cases where there is a risk that defendants may abscond or commit offences if released back into the community on bail.

It is important to note that this extension is temporary and will not be in place for any longer than is necessary, remaining in force for a time-limited period of 9 months subject to a sunset clause included in the SI. The extension will not be applied retrospectively to CTLs that began before the legislation came into force. Further, CTL cases have been and will continue to be prioritised. This approach will minimise the risk that defendants who pose a risk to the public, or those likely to abscond, could be released back into the community on bail before their trial can be listed.

Pre-trial detention is never considered lightly, and numerous safeguards exist to ensure that custody is used appropriately. These safeguards will be maintained and those on remand will still be able to apply for bail even with this extension in place.

Data held on CTLs is held within individual case files. HMCTS and the CPS monitor the length of time that a defendant is held on remand to ensure they are not remanded beyond their CTL (or that an extension is applied for if this is necessary), and this is done on case by case basis.

Further, an Equalities Impact Statement has been published and can be accessed via the following link: https://www.legislation.gov.uk/ukxi/2020/953/pdfs/uksipes_20200953_en.pdf

Bail Information Services (BIS)

In March 2020 HMPPS trialed a pro-active BIS with dedicated Bail Information Officers (BIOs) in a number of courts and prisons in the North West of England which was intended to inform the design, resourcing and delivery of a future full and proactive national BIS. This trial however had to be halted within its first 2 weeks of operation due to the Covid-19 pandemic. Between April to August, HMPPS introduced a temporary proactive BIS in the courts in response to the pandemic and in September recommenced the trial, this time including a few courts and prisons in Wales and the North West of England. Due to the unprecedented challenges arising from the pandemic including BIOs not being able to gain access to defendants and the closure of some courts and prison offender management units, the trial has not yet generated a sufficient volume of data to assess its impact. It is important to note that throughout this period, experienced probation practitioners are continuing to provide bail assessments where bail reports have been requested by the court.

In tandem with this trial, HMPPS are currently rolling out a Covid-19 response BIS in all public sector remand prisons including the female estate. This service will be operational for an initial period of 6 months and its primary aim is to support other HMPPS measures to mitigate the risk of further increases to prison capacity pressures during the ongoing Covid-19 pandemic. It is anticipated that the service will provide a larger volume of data and that the analysis and evaluation of this data could complement the findings of the trial in the North West of England and Wales. This service could therefore help to inform the delivery of a future dedicated and pro-active national BIS in courts and prisons.

Children and remand

Thank you for your positive feedback on the white paper proposals on custodial remand for children. My officials have had very constructive engagement with the Standing Committee for Youth Justice on the issue. These proposals reflect the fact that we have a separate justice system for children and young persons where custody is a last resort, in recognition of their different needs, level of development and vulnerability. The Government continues to work alongside the courts to ensure that individuals are not remanded in custody unless that is necessary for the protection of the public or the delivery of justice.

Yours ever



RT HON ROBERT BUCKLAND QC MP