

## **FCMHs at Exeter in the weeks of 8 and 15 June.**

1. These FCMHs are to take stock of the trial cases vacated over the last few months and, where necessary, to identify a new trial date.
2. It is still unclear if or when we will be able to resume jury trials in Exeter. As you know, a great deal of work is being done to assess risk for hearings in all jurisdictions. In the courts where trials have recommenced recently, the work involved has been considerable and the trials very demanding of resources.
3. The social distancing rule creates obvious problems, and we will be limited in what we can do while the present rule remains. We are a combined court centre and other jurisdictions have a pressing need for courts which allow face to face hearings .
4. The new trial dates are likely to be towards the end of this year and the beginning of next. You will understand that these new dates are as firm as they can be, but not guaranteed.
5. The hearing provides a significant opportunity to discuss the cases and for any indications to be sought, if required. It will be appreciated that it may be quite some time before these matters can be resolved at trial, with many cases passing their third or fourth anniversary beforehand with the affected parties in a state of limbo. Neither the Crown nor defence should be under any undue pressure, but all are aware of the current situation in terms of the delays to come and R v Manning.
6. The hearing will also allow for any further directions to be made. A pre-trial Covid-19 checklist will need to be completed at the time of the new Trial Readiness Certificates and will deal with timetabling of witnesses and the early provision of any documents to be given to the jury.
7. I will hear the cases in the first week; Judge Evans will hear those in the second.
8. The defendants in each case have been required to attend. Attendance will only be excused in exceptional circumstances on application to the relevant judge.

9. Our expectations for these hearings are these:

- a) The Crown will have carefully considered whether the case should continue in the light of all the circumstances including the likely long term shortage of trial capacity, or whether the case can be properly compromised;
- b) Robust discussions will have taken place with the defendant as to whether the not guilty pleas are to be maintained, whether to some or all counts, and any offers of plea (and basis) given to the Crown;
- c) If a Goodyear indication is sought, then proper notice will have been given;
- d) Confirmation from both sides that the cases remain trial ready (subject to witness availability -which has not been canvassed at this stage) with no disclosure or expert evidence issues;
- e) The witness requirements have been checked as to whether the attendance of a particular witness for either side is really essential and can be justified to the court;
- f) If, on reflection, any previously unheralded points of law are to be submitted at the trial they should be raised at this hearing, with notice to the other party. If contentious, any such points will be dealt with at pre-trial hearing;
- g) The trial length will have been considered. This will be subject to particular scrutiny;
- h) The advocate will have their availability to hand. I have already made it plain that this will be a significant factor in re-listing.

10. Directions will be given in each case about agreed facts, editing of witness statements and interview summaries etc.. In the main, only interview summaries will be permitted to go before the jury unless a party can justify an exception. Agreed facts and any editing of witness statements must be prepared well in advance of trial and not done 'on the hoof'.

11. If we resume trials, we will be operating in a new landscape. Pre-trial preparation is even more crucial. The experience of the trials started recently is that careful time and stage management is required throughout. This is more acute in a building where other jurisdictions are operating. Unplanned short breaks are a thing of

the past. With social distancing, these would cause enormous difficulties to the trial and the other cases in the building.

12. A minimum of one hour has been allowed for each hearing, to allow for conferences to take place pre- and mid-hearing.

PJ