

Fees Bulletin No.3 of 2016

Better Case Management



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Practice Direction on Better Case Management (BCM)

This bulletin amends and clarifies Fees Bulletin number 2 of 2015

1. Introduction

On 5 October the new Criminal Procedure Rules came into force and will introduce the Senior Presiding Judge's (SPJ) Better Case Management (BCM) initiative.

The initiative seeks to provide a single national approach which will ensure robust case management; reduce the number of hearings, maximise participation and engagement from every participant within the system; and ensure efficient compliance with the Criminal Procedure Rules; Practice and Court Directions.

This approach is embodied in the Criminal Procedure Rules (CPR) 2015 and supported by the Criminal Practice Directions (part 3 Case management) 2015. BCM revises the way in which cases will be listed and managed in the Crown Court and introduces a number of new hearing types.

These new arrangements have been introduced in a number of early adopter courts initially before implementation across all court from 4 January 2016 (see Section 4 – Implementation).

2. The procedure

One of the key changes which BCM introduces is a new first hearing for Crown Court cases, called the Plea and Trial Preparation Hearing (PTPH), which replaces the existing Preliminary Hearing. These hearings will be held within 28 days of the sending date. An effective PTPH will:

- Arraign the defendant unless there is a good reason not to;
- set the trial date;
- identify the issues for trial that can be determined at that stage;
- provide a timetable for the necessary pre-trial preparation and give directions for an effective trial;
- make provision for any Further Case Management hearing that may be required; and,
- ensure effective engagement has taken place between the parties.

If a guilty plea is entered at the PTPH then the matter should proceed to sentence, wherever possible. If a not guilty plea is entered, case management should take place in preparation for trial using the new PTPH form and a trial date set. Most cases will then proceed to trial. In more complex cases, however, it may be necessary for the matter may be adjourned for a **Further Case Management Hearing (FCMH)**.

In the event of a party failing to comply with a case management direction, a further hearing may be held for the relevant party to explain the reasons for that failure. These hearings will be called '**Compliance Hearings**'. Compliance Hearings may take place in court or via electronic means as the court directs.

3. Graduated Fee Scheme

This bulletin outlines how the three new hearings will be remunerated under the existing Graduated Fee Scheme framework. This will mean simple application of the new guidelines and negate the need to make any changes to the payment systems at this stage. This will, however, be an interim measure and will be reviewed as part of the review of the BCM process in the early adopter courts.

Plea and Trial Preparation Hearings (PTPH)

The Plea and Trial Preparation Hearing (PTPH) effectively replaces the Preliminary Hearing and the PCMH.

In accordance with the principles of the Graduated Fee Scheme (GFS), the advocate will be remunerated based on the outcome of the hearing, as opposed to what the case has been listed for. PTPH hearings, will therefore be paid as follows –

No.	Hearing	Hearing outcome	Main Hearing (Y/N)	Fee payable	Fee code
1	PTPH	Defendant pleads guilty to the indictment	Yes	Guilty plea	5
2	PTPH	The prosecution offer no evidence to the indictment	Yes	Guilty plea	5
3	PTPH	The indictment is stayed	Yes	Guilty plea	5
4	PTPH	Effective PTPH – not guilty plea entered and case adjourned for trial	No	BPD	BPD
5	PTPH	Ineffective PTPH – case adjourned for FCMH	No	BPD	BPD
6	PTPH	Defendant fails to attend – warrant issued	No	OHA	OHA

Further Case Management Hearing (FCMH)

Further Case Management hearings will only occur in identified complex cases or if a judge decides that the interests of justice require a further hearing. Thereafter, the next appearance in court should be for trial.

If, at a FCMH, the defendant pleads guilty to the indictment, or the prosecution offer no evidence or the indictment is stayed, the hearing would be paid as a main hearing.

The main hearing payable at a FCMH would depend on whether the case has been adjourned for trial at the PTPH.

A case is deemed to have been adjourned for trial when the following has happened

- The defendant has been arraigned
- A trial date has been set.

Please note this definition differs from current guidance and is applicable in all cases dealt with under the Better Case Management initiative.

If at an FCMH there is a main hearing and the defendant has been adjourned for trial then a cracked trial fee would be payable. If the case has not previously been adjourned for trial a guilty plea fee would be payable.

No.	Hearing	Hearing outcome	Main Hearing (Y/N)	Fee payable	Fee code
1	FCMH	Defendant pleads guilty to the indictment	Yes	Cracked trial/guilty plea – see above	8 or 5
2	FCMH	The prosecution offer no evidence to the indictment	Yes	Cracked trial/guilty plea – see above	8 or 5
3	FCMH	The indictment is stayed	Yes	Cracked trial/guilty plea – see above	8 or 5
4	FCMH	Case adjourned for trial or for a FCMH	No	BPD	BPD
5	FCMH	Defendant fails to attend – warrant issued	No	OHA	OHA

Any preparation work that the advocate undertakes in relation to these hearings is included in the BPD fee and the graduated main hearing fee and no separate remuneration can be claimed.

Compliance Hearings / Mention Hearings

These hearings will be remunerated using the OHA fee.

Virtual hearings

Compliance or mention hearings may be held via electronic means. If a case is listed for hearing on a Crown Court daily list and the advocate is in attendance at the hearing, either in person, via a telephone conference call or via a video link, the OHA fee should be paid.

4. Implementation

Phased implementation commenced from 5 October in early adopters (Isleworth, Leeds, Leicester, Liverpool Merthyr, Portsmouth, Reading and Woolwich) which will start operating BCM for new cases allocated and sent

to the Crown Court from the implementation date. These early adopters will be able to refine the detail of the scheme, test out the new Plea and Trial Preparation Hearing (PTPH) form, and ensure compatibility with the Crown Court Digital Case System (formerly CaseLines).

For cases sent prior to the commencement date these early adopter courts will continue with their current listing patterns.

From 4 January 2016 all courts will start operating BCM. Up to that date they will continue with their current listing pattern of Preliminary Hearing and PCMHs.

These changes to the fee scheme outlined below apply only to cases sent to the Crown Court in accordance with the BCM arrangements. For cases sent under the current listing pattern of Preliminary Hearing and PCMHs the existing graduated fee scheme (March 2012) shall apply.

5. Very High Costs Case fee scheme

The basis upon which hearing fees are paid under the Very High Cost Case fee scheme will be unaffected by the BCM initiative. Hearings will continue to be remunerated based on hearing length, rather than hearing outcome.

This bulletin has been posted on the CPS Infonet and CPS website and can be shared with chambers.