



Frances Cook

Howard League for Penal Reform

Enver Solomon

Just for Kids Law

Martha Spurrier

Liberty

MoJ ref: ADR81881

25 September 2020

Dear Frances, Enver, and Martha,

CHANGES TO CUSTODY TIME LIMITS IN THE CROWN COURT

Thank you for your letter of 16 September 2020 regarding the forthcoming changes to custody time limits.

The COVID-19 pandemic has brought unprecedented challenges to our justice system. 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.

On 27 March 2020 – at the start of the pandemic – HMCTS, the CPS, and the Senior Presiding Judge (SPJ) agreed to an adapted “Coronavirus Crisis Protocol”¹ that set a temporary framework for the efficient and expeditious handling of cases that involve a CTL. However, the current system of extending CTLs on a case-by-case basis under the framework of the “Coronavirus Crisis Protocol” was only intended as a short-term measure and needed to be reviewed in light of the scale of impact the pandemic has had on court business and the potential for a further spike in coronavirus cases. Legislative change will help to provide more certainty and consistency in the way remand prisoners and CTLs are managed during the transition to full court capacity.

It is important to note that the extension to CTLs 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.

An equalities statement has been produced as a part of the formation of this policy, and due regard was paid to the issues raised in your letter. Pre-trial detention is never considered lightly, and numerous

¹ https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/Revised-Coronavirus-Protocol-for-CTL-cases-signed-07042020.pdf

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.

Yours sincerely,

A handwritten signature in black ink that reads "Lucy Frazer". The signature is written in a cursive, flowing style.

Lucy Frazer QC MP