

Kent Judicial Business Group: Response to Consultation on Listing Proposals for Kent

Background

The Kent Judicial Business Group ('JBG') issued a consultation paper to all stakeholders on 7 February 2017 seeking views from respondents on 13 proposals for the strategic review of listing arrangements across Kent.

The paper set out the rationale for change in listing across magistrates' courts in Kent and aimed to explain a model designed to address improvements in performance and service to the public. The strategic aims of the listing review were explained in general terms as seeking to improve performance in criminal courts by re-balancing the profile of trial and first hearing courts.

The proposals aimed to create more capacity to manage the increased demand for court time in GAP, NGAP and Domestic Abuse hearings which had been suffering from delays in cases reaching listing and re-allocate some resources from other courts (including criminal trial courts) where workloads had seen a decline.

In making proposals, the JBG consultation aimed to find the best possible solution to the complex issues facing the criminal justice system which in general terms are summarized as a need to find efficiencies in the provision of service to the public where the volume of criminal workload has substantially declined, and whilst doing so ensure investment in the support of the judiciary through training and sufficient opportunity to retain high levels of competence by regular practice in specialist areas of work.

In the detailed review of the listing schedules, the JBG acknowledges that these decisions are directly related to the allocation of resources for all criminal justice agencies, with many services subject to limited resources in a public service under pressure due to budgetary restraint. The task of providing the best possible service to users in that environment is complex.

Overall, in pursuing those aims the holistic nature of the proposals meant that having identified the need to increase capacity for court lists in one part of the system, the resources required to achieve this important improvement in service would need to be found from other work areas.

The data analysis within the consultation paper explained the reduction of criminal workload generally and in particular within Kent the reduced numbers of criminal adult trials and the significant decline in prosecuted youth court work.

In addition to the need to increase provision of GAP, NGAP and Domestic Abuse hearings, the consultation paper also acknowledged the increase in family court work and aimed to cater for some additional capacity in family lists.

Consultation Process

The consultation period allowed three weeks for respondents to provide their views on the various proposals. As this consultation was not a formal public consultation the Cabinet office requirements on consultation periods did not apply. Some respondents were concerned about the length of time given in which to respond and would have preferred longer in order to arrange opportunities to discuss proposals at meetings.

The JBG accepts that a longer period in which to consider the proposed change would have been desirable but the current status of transformation of the justice system is moving ahead at a pace which required some important decisions to be made in Kent now in order to ensure it is prepared for future developments.

The JBG is very grateful to all respondents who contributed to this important consultation. Under the pressure of time a significant number of detailed responses were received from a range of stakeholders and particularly from magistrates who provided very helpful analysis of the issues.

In addition to the written responses gathered, it was possible to hold some direct discussions about a range of issues with various stakeholder groups and members of the judiciary in order to have a better understanding of their contributions.

In making the proposals, the JBG has a responsibility to concentrate on the strategic level decisions in establishing the best listing framework. Some responses received indicated a need to further explore some of the detailed operational arrangements about listing and the JBG can see that continuing discussions about the day-to-day arrangements are needed with stakeholders about some issues. The JBG will ensure HMCTS management continues to liaise with stakeholders to find the most workable solutions.

Responses also indicated some new thinking between agencies might be needed in order to respond to the wider changing issues in the criminal justice service. Further partnership discussions will be needed to identify new technological solutions or adjusted operational practices to make the best opportunity of resource.

In summary the publication of this response to the consultation has identified the need to start some new conversations on collaboration. The JBG will continue to monitor both the outcome of this consultation and the outcomes of those future conversations.

Decision-making responsibilities

As explained in the Consultation Paper, the JBG has responsibility for ensuring that the judicial business of the court is conducted in a speedy and efficient manner and for setting the strategic listing policy for the magistrates' courts at clerkship level.

Listing policies are set in accordance with the [Consolidated Criminal Practice Direction on Listing and Allocation](#). Currently, the governance arrangements established by the senior Judiciary provide that listing decisions are for the judicial members of the JBG within its geographical boundary – in this case Kent.

Many respondents are already aware that the criminal justice system is subject to substantial transformation at all levels and across all jurisdictions. The Lord Chief Justice, Lord Chancellor and Senior President of Tribunals issued a joint vision statement in 2016 which describes the case for reform of the justice system and plans for the future structure.

In close partnership with the judiciary, the HMCTS Reform programme aims to deliver the vision by 2022, creating a modern and world class quality justice system. The scale of the Reform programme is unprecedented in recent history and is commonly described as a 'one in a generation' opportunity to secure the future delivery of justice in this country. The investment of £1bn in the Reform programme by HM Government underlines the scale of change. The principles of a just, accessible and proportionate system recognise the need to transform the courts estates, IT infrastructure and business process and capabilities to deliver the change needed. For the magistrates courts this means an enormous investment in new thinking. National forecasts newly available from the Reform programme anticipate in excess of 35% of current formal court hearings moving to new online processes – with the traditional courtroom settings being reserved for the cases most in need of formal judicial consideration. As a dilapidated court estate is replaced with modernised physical and online settings for the delivery of justice, the traditional way in which magistrates are organised around Local Justice Areas and benches of magistrates assigned to those geographic boundaries are also subject to consideration and change. The opportunity for cross-border listing of casework and the deployment of the judiciary already exists and this consultation in Kent has inevitably provoked some discussion of these subjects.

Since publication of the JBG Consultation paper, the Judicial Office and HMCTS have launched a national campaign of judicial and staff engagement in this transformation programme. The Secretary of State for Justice has also issued the ground-breaking **Prisons and Courts Reform Bill** which had its first reading before Parliament on 24 February 2017. This Bill provides the legal framework for the radical change in approach in delivery of justice in the courts, establishing the mechanisms by which many current processes involving formal hearings in courtrooms with the defendant present are transformed into online processes in the absence of the defendant – subject to obvious safeguards and choices for individuals.

The JBG consultation was made in anticipation of this ‘one in generation’ change programme but at the time of publication did not have detail about the content of the Bill. The publication of this important Bill may assist stakeholders and respondents in appreciating the enormity of the transformation programme now well underway.

The consultation paper explained the Judicial Business Group’s collective responsibility for the strategic listing policies across the Clerkship area under governance arrangements established nationally by the Senior Presiding Judge. Under these governance arrangements established in 2013, the members are responsible for strategic decisions covering the whole of the area. Specifically, when acting in this capacity, members are not representatives of their individual areas and are required to make decisions which fulfill responsibilities to the governance arrangements if in conflict with local interest considerations.

The members of the JBG are the three Bench Chairmen, District Judges (Magistrates Courts), the Magistrates’ Liaison Judge, a representative of the Magistrates’ Association, the Justices’ Clerk and Cluster Manager.

The Consultation Responses

Views on the future of listing arrangements were sought from a wide range of judicial and other stakeholders listed below¹.

The JBG wishes to thank again all of those who took time to contribute to this consultation and has valued each of the responses. In the relatively short timeframe, the consultation received a considerable number of responses which have provided a detailed picture to support the JBG’s decision-making.

The JBG has considered in detail all of the responses received and has based its decisions on the responses received. It should be understood that the responsibilities of the JBG are to ensure the most efficient and effective justice system and therefore its decisions need to take account of a wide range of factors which include, but are not limited, to the views of respondents.

The task of the JBG is to seek to balance all these separate considerations within a complex framework in which all stakeholders receive the best available service, this being necessarily limited by available resource.

In consulting stakeholders and the judiciary, the JBG recognized that some of the proposals would be regarded as challenging for some individuals, groups or organizations. It was anticipated that increased travel for court users would be a concern for many and that decision-making would need to take this into account. Travel times to access courts in traditional settings has already changed over time in Kent with the introduction and expansion of the use of video link technology and simplification of process including the Single Justice Procedure which removes the need for formal attendance of parties for decisions in low-level

¹ This consultation paper was sent to: Kent Magistrates; the Magistrates Association – Kent Branch; Youth Offending Service; Local Authority; Crown Prosecution Service; National Probation Service; Kent Police; Police and Crime Commissioner’s Office; Citizens’ Advice; Law Society; Legal Aid Agency; National Offender Management Service; DVLA, TV Licensing; Dover Port Authority; South East Trains and other private prosecuting agencies routinely operating in Kent

cases. Whilst travel times are still very relevant to JBG decision-making, increased flexibility in the way proceedings can be managed opens up new opportunities to minimize the impact of travel time on court users. Wherever possible, the JBG decisions have offered ideas about how the conundrum of increased travel might be resolved.

Overview of Responses

The JBG proposed 13 changes to the Kent listing framework. It received a total of 45 responses with 29 responses from magistrates or magistrates on behalf of their panels. The JBG also received responses from a number of criminal justice organizations which included the Police and Crime Commissioner Office; Kent Police; the Crown Prosecution Service; Youth Offending Services; DVLA, Home Office; District Councils and other prosecution agencies using courts in Kent. A group of Legal Advisers and HMCTS administration also provided valuable comments on some of the detailed operational aspects of the proposals.

By far, the majority of responses received in relation to the *strategic* aspects of the proposals concentrated on proposals to alter the listing arrangements for youth court work and the mergers of the panels for youth and family magistrates. The individual proposals and decisions are explained below:

Proposal 1 – reduction in criminal trial court allocation

Responses to this proposal were received from 5 magistrates, the legal adviser team, the Police and Crime Commissioner's Office and Kent Police. All responses received were positive, accepting the case for change and the need to improve utilisation of under used capacity in trial courts following a decline in caseload.

Respondents noted and supported the JBG's concern to closely monitor the impact of any trial court reduction particularly in view of the good progress made in Kent in reducing the timeliness performance of trials. The JBG is of the view that some additional work is required to define improved practices in the listing of trials generally and in domestic abuse cases in particular. An increased workload of priority trials as a proportion of the overall workload requires some re-thinking of operational strategies to make best use of trial court resource including some work on simplifying the protocols on how trial courts should be listed using the diary function. The JBG also decided that a review of the appropriate 'overbooking ratio' should be conducted as part of this work. Currently, up to 11 hours of work is listed into around 5 to 5.5 hours within a standard court sitting day. The long established overbooking practices are based on the standard rates of cracked, vacated and ineffective trials. As work types change the JBG considers that a review into the listing practices is needed and this work will be conducted over coming months. The JBG noted one response which was concerned that a 9-hour listing day meant a court sitting later into the evening. The 9-hour day mentioned referred to the overbooking listing practice and did not refer to the length of actual court sittings.

JBG Decision – Proposal to be implemented

Proposal 2 – re-organise GAP, NGAP and DA courts

The JBG received 5 positive responses from magistrates to the proposal to re-balance this work in order to address delays and supportive responses from Kent Police and the Police and Crime Commissioners' office about the idea. Improvements in timeliness remain a clear priority for agencies and additional data provided by Police underlines the need to make improvements at the earliest opportunity.

Kent Legal Advisers who have very close experience of the daily operation of the GAP and NGAP courts made a very helpful and considered contribution about the balance of GAP & NGAP courts between Margate and Folkestone suggesting an increase of provision at Folkestone. The JBG agrees the need to review and reconsider the balance of courts between these two locations in order to achieve the right level of sessions

to match the current workload demand. The final arrangement for courts within East Kent can be implemented by local management in liaison with stakeholder groups.

The helpful responses from the IDVA services suggested a need to think about availability of referral services on Monday or Fridays. The JBG will ask HMCTS to look at this in more detail by discussing this further with all court users. This could be achieved by establishing a multi-agency Listing Implementation team to discuss issues and to decide how best to ensure safeguarding arrangements through the week including Friday. Whilst the JBG has decided to list the courts as currently planned, there is scope to adjust this to another day of the week should a need be identified by a multi-agency team. Further work will also need to be done to consider arrangements for the best use of IDVA resources in obtaining important result information from case outcomes and explore opportunities for a review of processes particularly in light of the move towards more instantaneous resulting of cases to Police National Computer using digital methods.

JBG Decision – Proposal to be implemented – subject to local decisions in East Kent to re-balance the Margate and Folkestone lists

Proposal 3(a) to list all Central and North Kent Youth work at Medway

Understandably, this proposal received a considerable number of detailed responses which have been very helpful in supporting the JBG decision-making process. It was recognized in making the proposal that this would be a difficult option. The consultation paper set out the very real challenges facing the youth justice system due to the significant decline in prosecuted caseload resulting from much earlier intervention in the offending history of young people to support them towards rehabilitation and away from further offending. All available data reveals a sustained decline in workload. The very much smaller caseload typically involves some of the most vulnerable participants and serious cases. There is widespread acceptance of the principle that in order to provide a high quality justice service in these difficult cases, the members of the judiciary and the professionals who advise and support their decision-making need sufficiently regular opportunity to practice in a dedicated youth court environment. In Central Kent this decline in workload has resulted in only one half day a week of youth work as well as occasional youth trial courts. This in turn has made it difficult for a significant number of magistrates to be able to achieve minimum sittings.

Against a decline of work, the only realistic opportunity to avoid further erosion in competence levels is to brigade work into fewer courthouses and fewer sessions. The JBG proposed achieving this geographically by bringing cases together from a wider catchment area. The immediate concern about this proposal is of course the issues involved in parties being asked to travel further to attend court. The responses to consultation dealt with the impact of this in some detail, providing analysis of particular journey times from various locations across Kent pointing out the very real travel difficulties that some would face from certain rural or distant areas².

The JBG was greatly assisted by this detailed analysis which it has considered carefully. The arguments about increased travel times and costs for young people have been made clearly. In general terms, whilst these arguments underlined the problem already identified, the responses offered no realistic alternatives in order to address the other problems which exist in a matrix of considerations. Some respondents argued

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A basic summary of travel times between current courthouse buildings was included in the consultation paper and a number of respondents offered further analysis of travel times for journeys from towns in areas of Kent to demonstrate increased travel times to Medway. They also pointed out that some court users live in villages beyond the main travel hubs including New Romney and Edenbridge which involves additional travel to the hubs.

Tunbridge Wells to Medway – 55 mins car; 90 mins train
Tonbridge to Medway – 46 mins by car; 77 mins train
Shepway to Medway 33 mins by car; 59 mins train
Sevenoaks to Medway 40 mins by car; 88 mins by train

that we should maintain the existing arrangement on the basis that it was working well. Other responses challenged the operation of the current arrangements particularly in Central Kent which has currently only sufficient youth court work for one half-day listed session per week which can overrun into the afternoon creating significant problems with the separation of youth and adult cases in the list.

The JBG were persuaded by the arguments that to retain the current listing arrangements would, although mitigating travel times, would not address the wider issues about maintaining the quality of justice generally. The potential for decline in standards of competence was routinely reported by the judiciary and other stakeholder agencies. Designing a listing framework that only addressed travel issues would fail to address these other issues.

The alternative suggestion of locating all of the youth work at Maidstone, or an increased amount of it at Maidstone would alleviate some concerns about travel times, but would not in the view of the JBG address the very real issues about separation of adults and youths as required by statute. Reducing frequency of listing to increase supply of youth court work at Maidstone to achieve efficiencies would not address the issues of competence and would lead to delays for youth.

In balancing all the factors, the JBG noted concern about travel times and costs but considered that the additional journey times for young people travelling from some areas, whilst problematic, affected very small numbers of people with the majority of youth court work coming from the Medway area. The JBG accepted that some journey times by public transport appear unreasonable when looked at in isolation. However, there is no available data to predict how court users might exercise choices of alternative forms of transport when faced with a long journey on public transport. Some court users will select private transport as an alternative (or as a first choice) and some young people (those remanded or detained) are brought to court in any event with Social Services having responsibility for supporting transport for some young people as either Looked After Children or children in need/at risk.

In deciding to proceed with the proposal, the JBG wished to acknowledge in particular the contribution of the YOS and the potential for continued work to be done across all agencies to manage the implementation of this listing policy. For example, the opportunity to explore the use of video link with both the young person and YOS worker jointly appearing on video at preliminary hearings may be appropriate in some cases. The Prisons and Courts Bill introduces significant future change with the opportunity for preliminary plea, allocation and case management hearings to be dealt with online, remotely and in the absence of the young person.

Additionally, the JBG would wish to explore the possibility of creating bespoke arrangements in individual cases where exceptional travel issues cannot be overcome. Systems can be arranged for such cases to be identified and suitable responses to be agreed. For example, if exceptional travel issues existed in an individual case where a longer youth court trial listing was required this could be listed more locally to the youth subject to need and availability of resource. As some youth trials will still need to be slotted into trial schedules and so there is still an option available to list a trial at a courthouse in Central Kent depending on availability and the needs of the youths. Alternatively, bespoke timed listings to avoid peak travel times could be agreed with travel later in the morning or afternoon also being cheaper. Additionally, consideration could be given to reducing travel times by listing cases across county boundaries into more suitably located youth court areas including at Hastings. Work on these considerations would be required and can be considered under the JBG's direction by a multi-agency implementation group.

JBG Decision – proceed with the listing of all youth court work for Central and North Kent at Medway with work between agencies to continue to make arrangements for exceptional cases and in particular for trials.

Proposal 3(b) to list all East Kent youth work at Canterbury

In many respects the issues in relation to this proposal as raised in the consultation are the same as those in the above proposal. Travel times from some remote areas in Kent to Canterbury raised the same

considerations. Summarising these points given the same detailed attention as outlined above, the JBG was satisfied that for the vast majority of court users the travel times to Canterbury were acceptable.

Whilst previous listing decisions returned youth work to Margate after a period being listed at Canterbury, these decisions were based on the data which identified a majority of youth cases coming from the Margate area and at a time when courts at both Margate and Folkestone were considered necessary. The JBG noted that there had been a continual decline in numbers of youth cases to such an extent that the viability of the current youth lists cannot be maintained and that further consolidation of work was required. Consolidation of youth court sessions is required to ensure efficiency in operation and specialisation in the youth jurisdiction. Reducing the frequency of listing further in order to achieve better utilisation was not an option as already the weekly alternating courts added an additional week's delay to the hearing for a youth and any further reduction of frequency would be harmful to timely delivery of justice in the view of the JBG. As things stand currently on the proposed framework, the suggested youth courts on Mondays at Canterbury will be subject to consolidation further at Canterbury if the workload levels dictate, so that courts may operate less frequently than shown in order to brigade work effectively. Local management decisions on listings will be made to monitor this.

Some respondents commented on the traffic issues within Canterbury. Whilst congestion is a recognised issue in travel times, the JBG notes that both magistrates and court users from across East Kent already attend Canterbury magistrates' court routinely for some criminal cases but also family cases. Additionally, a range of court users attends Canterbury Combined court from all parts of East Kent.

As above under proposal 3(a), in exceptional cases it may continue to be possible to make bespoke listing arrangements for individual cases and/or consider opportunities for video link.

The JBG noted the respondents' comments in relation to a potential restriction in flexibility in the listing of multi-day family cases at Canterbury starting on a Monday and the need for arrangements for emergency cases on a Monday. In proceeding with its proposal, the JBG considers the move of an additional court to a Thursday at Canterbury increases the flexibility of listing multi-day cases across two courtrooms Tuesday to Thursday. The frequency of listing of youth courts at Canterbury on Mondays will be subject to workload levels and there may still be occasions, subject to resource and proper arrangements for separation of youth and family work, for the occasional multi-day family case to be listed from Monday. This would be exceptional and need prior local management agreement. The JBG considers adequate arrangements for dealing with emergency matters on Mondays can be arranged to the extent they do not already exist. The JBG noted that 5 day multi day family hearings should no longer be heard in the magistrates' courts which will reduce the pressure on resources.

JBG Decision – proceed with the move of youth court work to Canterbury for East Kent

Proposal 4 – Single youth Panel for Kent

JBG Decision – the JBG approve the merger of Central Kent Youth Panel and North Kent Youth Panel with East Kent to remain a separate Youth Panel at this time pending further discussions amongst Kent youth justices as directed by the JBG. The JBG saw merit in youth justices having further time to consider the advantages and disadvantages of merger and to discuss experiences with youth justice colleagues in other areas. The JBG will invite the Youth Panel Chairmen to lead their panels through these further discussions over the coming months. An Appendix is provided separately to magistrates with some factors which the JBG asks panel members to consider when making their decision.

NOTE: The listing decisions above create some risk of highly experienced youth panel magistrates facing difficulty in maintaining access to youth court work. The JBG is particularly concerned to find workable solutions to this in order to retain the wealth of judicial talent in this jurisdiction. The existence and purpose

of a youth (or family) panel sits within the new judicial protocol issued under the Justice of the Peace Rules 2016 following the abolition of panels in statute. The new protocol underlines the purpose of panels being mostly training and collaboration over mutual issues of interest. The purpose of the panel does not extend to the issue of the deployment of the judiciary across areas. Therefore, the decision to defer the creation of a single Youth panel with East Kent remaining separate from Central & North Kent does not affect the flexibility with which youth magistrates can be deployed across Kent according to their personal preferences. In short, this means that youth magistrates may be scheduled to sit at Medway or Canterbury or both subject to their preferences irrespective of which panel they belong to.

All Kent youth justices will be surveyed individually and the JBG in consultation with the Youth Panel chairmen will take this exercise forward as soon as practicable in order quickly to establish the preference for youth magistrates to sit across Kent and also across county borders into neighbouring areas such as Hastings. This preference exercise will be important in assessing options for existing youth panel magistrates so as to retain skills and experience under the new court listing arrangements.

Proposal 5 – Additional family courts

The overall increase in family courts was welcomed. The JBG acknowledged the need for an additional FHDRA court but makes no decision on where that court needs to be routinely located. This additional court may need to alternate between Canterbury and Anchorage House through the month. The JBG asks HMCTS family leads to finalise and manage arrangements for this with the Designated Family Judge's team.

Proposal 6 – Single Family Panel for Kent

JBG Decision – deferred for further consideration. As explained to respondents during the consultation period and as referred to above the timelines for this decision are not intrinsically linked to the listing consultation, as there is no current requirement to address the deployment of family magistrates. A number of responses have been received some in support of a single panel and some in opposition.

Having already communicated its suggestions, the JBG invites Family Panels to continue to consider the proposal for county-wide merger and to spend time analyzing the relevant issues bearing in mind the statutory abolition of panels and defined purpose of family panels as set out in the judicial ***Protocol for the establishment and operation of family panels*** issued in conjunction with the Justice of the Peace Rules 2016. The JBG will ask Family Panel chairmen to lead their panels through discussion areas as directed by the JBG with a view to a decision being made over the coming months. An Appendix is provided separately to magistrates with some factors which the JBG asks panel members to consider when making their decision.

NOTE: as above for youth panels, the deferment of this decision does not affect the flexibility with which family magistrates can be deployed across Kent subject to their personal preferences. A similar survey exercise of family magistrates will be conducted on behalf of the JBG in consultation with family panel chairs.

Proposal 7 – SJP at Canterbury

JBG Decision – proceed with proposal for a single location at Canterbury with all Kent magistrates having the opportunity to sit in Single Justice Process sessions on a shared rota. Since publication of the Consultation paper the Prison and Courts Reform Bill provides further insight into the future organisation of the criminal courts with a single justice tier becoming a reality in a wider range of cases.

The JBG wishes to move forward with other prosecution agencies accessing the SJP procedure which offers benefit to them.

The JBG leaves open the option to locate SJP work at Maidstone as an alternative to Canterbury as the preferred location should, in time, it appear that Maidstone is more suitable and accessible to the majority of magistrates and the legal team.

Proposal 8 – Single location for DVLA and TV Licensing

JBG Decision – proceed with proposal for a single location at Canterbury involving DVLA and TV Licensing in planning future arrangements. Some magistrates responded with concerns about travel times for those attending courts and this issue was also noted by other respondents. The JBG has considered the impact. However, whilst JBG accepts TV Licensing cases often involve defendants with limited means the reality is that barely any attenders appear in court hearings even when held 'locally'. The JBG would wish to ensure a procedural step is created allowing defendants in both DVLA and TV Licensing cases to be able to explain their travel difficulties and seek a local hearing if required. Additionally the JBG would wish to explore the options for defendants to engage with the prosecution team prior to court hearings via telephone or electronic methods to discuss case management issues actively in advance of any listed trial hearing and thereby reduce the need for defendants to attend at court. Typically, a significant amount of DVLA casework is resolved before a trial commences. The JBG will ask the implementation team to discuss arrangements with agencies to ensure listing patterns align with commitments to other areas and sufficient capacity is provided within a more efficiently run miscellaneous court list generally.

Proposal 9 – Increase RT Attender courts

Four respondents were positive about this proposal with the PCC office suggesting an extension of the trialled remote prosecution of cases with the prosecutor appearing via video with this giving the police a much more efficient utilization of their resource.

JBG decision – the JBG listing plans will proceed and in principle the JBG supports the move to remote prosecution in these hearings subject to receiving satisfactory confirmation that arrangements can be implemented to enable the important pre-court exchanges to take place between the prosecutor and the defendant. Very often these pre-court conversations can lead to a shortening of time spent in court or an outcome agreed by parties. The JBG considers that it ought to be possible to find a solution to this using technology and requests agencies to consider options and, once agreed by the JBG, to run a short pilot to test.

Proposal 10 – Dedicated Fine enforcement list

The three responses received were positive and the JBG proposal will proceed. Having determined that in principle the performance of enforcement courts is improved in dedicated sessions, the JBG would wish to see this facility in each of the three current LJAs and so would wish provision to be made in the North Kent LJA. The JBG asks local bench management to find a solution to this and implement at the appropriate time following discussion with agencies particularly HMCTS Enforcement.

Proposal 11 – Consolidate Local Authority and miscellaneous lists

The JBG Proposal to consolidate lists of local authority and non-CPS work received a number of contributions from agencies who raised concern about the capacity within lists for their work and also the days on which cases would be listed. The consultation paper explained that the proposal was made in general terms. Some responses commented on the cancellation of work with suggestions both ways about the frequency with which courts are underutilized. The JBG proposals will proceed in general terms with decisions on how this operates to be made in liaison with local bench managers and stakeholders. Some transition to any

agreed future arrangements will be inevitable given that work in some areas will already be listed beyond April.

Proposal 12 – increase Prison to court video

JBG proposal approved. Making better use of PCVL sessions by increasing slots received positive responses with the detail to be worked on between agencies.

Proposal 13 – simplify listing of cases into adjourned slots

This proposal was met with support from respondents including the legal advisers. Work within HMCTS on how this proposal is best achieved needs to be considered with guidance and systems to be determined to ensure that when a need to adjourn a case arises a new date can be found quickly and without the current lengthy adjournment period. Some increased flexibility in diary listing will be a feature in the solution to this. JBG will ask an implementation team to take this work forward.

Other Issues Raised in response to Consultation

The JBG is very grateful to Respondents who have raised further issues which need now to be considered as part of a general package to improve performance of Kent courts. The JBG will task the implementation team to discuss these with stakeholders:

Duty Solicitor Rota

Defence practitioner responses to the consultation highlighted the need to address the current arrangements for Duty Solicitor rotas across Kent – to support specialization in youth court work as an example. The JBG welcomes this suggestion and a wider review of the arrangements and will ask HMCTS teams to engage with defence firms and the Legal Aid Agency to consider appropriate options.

Improved video capability at Sevenoaks – there is still some need to address facilities and secure better flexibility in listing video cases

Specialist Domestic Abuse courts

The principles of specialist listing attaching to the youth court jurisdiction are different to those in the other criminal jurisdictions. Kent has developed specialisation in handling of domestic abuse work and in listing first hearing and sentencing cases in dedicated lists. Domestic abuse trials are listed across the framework in order to ensure the first available opportunity is found to complete the cases without delay. Specialisation of trial courts is therefore impracticable. However, the current practices of bailing first appearance cases for 28 days is causing delay and following preliminary discussions, within the new framework, the JBG would wish to see agencies continuing to work on improved timeliness for cases to first hearing noting the success in areas like Surrey as an example. There is evidence of a need for further investment for training across the domestic abuse services and the judiciary are already formulating plans to address this with a new programme in Kent.

Youth custody remands to appear via video link in virtual court

The PCC's Office presented a YOS recommendation for the system of dealing with youth overnight custody cases to be improved by the use of video link from police station to the virtual court in order to secure the separation of youth and adult detainees whilst in custody and to improve the welfare of young defendants generally who were being brought on vans and detained often for long periods in sometimes unsuitable circumstances. Routinely, youths arrested on warrants in breach of bail or remand conditions are detained overnight to be released by courts to next day as often this is the most suitable options to deal with breaches. The JBG invites the agencies to work together to find options to improve this experience and supports the further consideration of the use of video link in order to achieve this subject to any constraints imposed by the Criminal Procedures Rules.

The JBG approves the use of video link for youth custody overnight remands for all Kent cases listed at Medway Youth Court on days when a youth court is not operational (i.e. typically Weds, Thurs and Friday).

JBG Appendix: To Family Panel Chairmen

The JBG asks Family Panel Chairmen to consider the potential benefit of joint training and meetings leading to consistency of practice and increased collegiality amongst Kent family magistrates; the benefits to family justice agencies of having a single panel management structure – reducing duplication of effort in agencies with limited resource; the benefit to HMCTS legal advisers in being better able to support the operations of panels county wide; the reality of current judicial deployment which means that a significant number of panel members already sit across Local Justice Area boundaries in family cases working side by side with panel colleagues from neighboring areas and – to that extent- in many respects the panels have already a merged network of individuals such that there is an artificiality in maintaining separated panel structures in future. The JBG also invites family panel members to consider that concerns about travel to Kent-wide meetings can be allayed in recognizing that Maidstone is already regarded as a training hub for Kent magistrates with magistrates routinely attending events in Maidstone – and that this could be a venue for combined panel meetings making use of video link technology to join colleagues together as already happens in neighbouring counties with the positive support of family magistrates and the judiciary

A number of family panel magistrates already sit across panel areas and some would be willing to sit across family panel boundaries across Kent and beyond. The existence of separate family panels does not prevent the deployment of family panel magistrates across 'boundaries' and decisions about the deployment of panel members are not within the remit of individual panels. Views expressed about the preservation of separate panels cannot operate to exclude family panel magistrates who have been authorized to sit in the jurisdiction from accessing sittings in areas in a neighbouring panel. Therefore the JBG will proceed to survey all Kent family panel magistrates about their preferred sitting locations.

JBG Appendix: To Youth Panel Chairmen

The JBG will proceed with a revised recommendation to the Senior Presiding Judge to merge the Central and North youth panels at this time but in doing so asks the Kent youth panel chairmen and magistrates to continue to discuss the wider proposal in view of the following factors:

- 1) the purpose of youth panels as described in the judicial ***Protocol for the establishment and operation of youth panels*** relates to joint training and liaison of panels – which are not separate entities for other reasons
- 2) a substantial number of youth panel magistrates already sit across panel areas and some would be willing to sit across youth panel boundaries across Kent and beyond in order to maintain competence and better serve youth justice
- 3) the existence of separate youth panels does not prevent the deployment of youth panel magistrates across 'boundaries' and decisions about the deployment of panel members is not within the remit of individual panels. Views expressed about the preservation of separate panels cannot operate to exclude youth panel magistrates who have been authorized to sit in the jurisdiction from accessing sittings in areas in a neighbouring panel. Therefore, whilst the JBG accepts the East Kent's panels wishes at this time against a Kent-wide merger, it will proceed to survey all Kent youth panel magistrates about their preferred sitting locations and deploy them to youth court centres according to their expressed preference regardless of any membership of panels.
- 4) East Kent Youth Panel suggest a reason against merger is that around 50% of its membership are due to retire in 2018 and that an appropriately managed reduction in numbers could be achieved without merger in order to ensure continued sitting levels are of sufficient frequency to maintain competence. Whilst accepting this factual position, the JBG has concern based on this response that the age profile of the East Kent youth panel is such that 50% of its members are around 69 years old. The JBG would regard merger across Kent as an opportunity to address this obvious imbalance in age profile at an earlier stage that new recruitment could achieve

- 5) The JBG notes concerns about travel times expressed by youth panel members but has also to consider the need to maintain average sitting levels at least in accordance with the minimum panel levels set by the Lord Chancellors' Directions to Advisory Committees of 15 sessions per year. The JBG has been made aware that a substantial number of youth panel magistrates are significantly below that level of sitting – which raises concern. Additionally, the JBG is aware of the requirement within Rule 35 Justices of the Peace Rules 2016 for the JTAAAC to review excess authorizations on the panel. The significant decline in youth court work has substantially reduced the requirement for listing of youth courts and therefore impacted on the sitting levels of panel magistrates. Current analysis indicates a surplus of youth panel magistrates across Kent in the region of 30-40 magistrates. Sensitive to the issues this creates for individuals, the JBG must bear in mind that there may not be a continuing need for some of those objecting to panel merger to continue to serve on the panel. Whilst some will inevitably regard reduction with concern, the obligation of the JBG is to ensure an appropriately sized panel which corresponds to the levels of workload. Concerns about how the reduction is achieved will be addressed within the process e.g. a reduction through natural turnover due to age retirement.
- 6) Some objections to merger have been based on the misunderstanding that a merged Kent panel would require magistrates to sit at youth court locations more distant from them than their closest youth court. As now, the rota and deployment of magistrates is dealt with on an individual basis so that all magistrates have the opportunity to set a preference to sit predominantly or entirely at their closest youth court location. A merged panel would not change this.
- 7) Concerns expressed about travel to panel meetings should be considered against the reality that Kent magistrates are already routinely attending training events held at Maidstone without issue and that there is no reason why meetings of a combined Kent youth panel could not be held at Maidstone. There is no requirement to hold youth panel meetings at a youth court location. As for family panel magistrates, consideration of video linked panel meetings should be explored before the proposal is finally considered – having first tried such arrangements and following discussions with magistrates panels in adjacent counties who already positively use these facilities