

# CRIMINAL PROCEDURE RULE COMMITTEE

MEETING ON FRIDAY 3<sup>rd</sup> FEBRUARY, 2023 at 1.30 p.m.

MINISTRY OF JUSTICE  
102 PETTY FRANCE, LONDON SW1  
and by video conference

## MINUTES

### Present

#### *Committee members*

Lord Justice Holroyde	Court of Appeal judge; deputy chairman of the Committee; chairman of the meeting
Lord Justice William Davis	Court of Appeal judge
Mrs Justice Foster	High Court judge
HH Judge Field KC	Circuit judge
HH Judge Norton	Circuit judge
Michael Snow	District Judge (Magistrates' Courts)
Max Hill KC	Director of Public Prosecutions
Alison Pople KC	Barrister
Paul Jarvis	Barrister
Edmund Smyth	Solicitor
Nicholas Ephgrave	National Police Chiefs' Council

#### *Guest*

Professor David Ormerod KC    University College, London

### **Agenda item 1: welcome, announcements, apologies**

The chairman welcomed all those attending, in person and by video conference. Apologies for absence were received from Louise Bryant and Shade Abiodun.

### **Agenda item 2: draft minutes of the meeting on 9<sup>th</sup> December, 2022**

The minutes were adopted, subject to any corrections to be notified by members to the secretary.

### **Agenda item 3: case management group report**

Mrs Justice Foster reported that the group had discussed:

- 1) applications to vary behaviour orders, and had agreed in principle on further amendments to CrimPR 31.5 to discourage and deal with vexatious and persistent applications. Rule amendments would be presented to the next Committee meeting.
- 2) a draft form of application for a live link direction, and had agreed that in the absence yet of any practical and accessible guidance on how to arrange for a live link from abroad the form for the time being should include only a general

warning of the difficulties. The draft would be further amended accordingly and then could be published.

- 3) proposals for amendments to the sending for trial form, for which the judge thanked HH Judge Norton and District Judge (Magistrates' Courts) Robinson for their respective proposals and comments. More work was needed on the practical application of arrangements in magistrates' courts for the management of cases being sent for trial to the Crown Court, taking into account magistrates' courts' capacity and taking into account the careful and thorough consideration given to the subject by the Senior Presiding Judge's Crown Court Improvement Group. The case management group had agreed that the terms in which the current sending for trial form recorded for the Crown Court any plea indication given under CrimPR 9.7 needed clearly to correspond with the requirements of the Sentencing Council guideline "Reduction in Sentence for a Guilty Plea", but members reached no consensus on how best to amend the form.

#### **Agenda item 4 (paper (23)01): Committee programme for 2023**

This paper would be submitted to the next Committee meeting.

#### **Agenda item 5 (paper (23)02): rules to replace Criminal Practice Directions**

The Committee approved the proposed rules on:

- 1) duties of justices' legal advisers.
- 2) arrangements for prosecution for failure to provide name and date of birth.
- 3) adjournment, including reliance on a medical certificate. Observing that substantially the same requirements had been in place now for many years, the Committee agreed that they remained appropriate.
- 4) defendant's first court appearance in custody. While approving the rule in principle, the Committee directed its adjustment (a) to apply also to a first appearance in custody following arrest under a warrant issued by the court otherwise than in respect of an earlier failure to attend, and (b) to extend the latest time for production at court on a Saturday or bank holiday from 11.30am to 12.30pm.
- 5) defendant's appearance in custody after arrest for breach of bail. While approving the rule in principle, the Committee again directed its adjustment to extend the time for production on a Saturday or bank holiday from 11.30am to 12.30pm.
- 6) setting a timetable for the pre-trial recording of cross-examination.
- 7) bind over. While approving the rule in principle, the Committee directed its adjustment to make clear that binding over in private would be wholly exceptional.
- 8) punishment for contempt of court.

The Committee endorsed the suggestion that each corresponding practice direction to be omitted should be kept in force temporarily until such time as the replacement rules took effect.

**Agenda item 6 (paper (23)03): requirement for defendant to give address**

The Committee approved the revised rule amendment circulated on 1<sup>st</sup> February, 2023, subject to adjustment (i) to make it clear that any electronic address and any telephone number provided need be only ones by means of which the court could communicate with the defendant, not necessarily ones owned or controlled by the defendant, and (ii) to make it clear that the provision of an electronic address and a telephone number need not take place in public. Members acknowledged that the alleged association of a defendant with an address, electronic address or telephone number might be in issue in the proceedings, so that in some circumstances to require such information might be tantamount to requiring an admission of a fact in dispute.

**Agenda item 7 (paper (23)04): witness companions**

The Committee agreed to consider draft rules, but not until the content of the anticipated Victims Bill was known.

**Agenda item 8 (paper (23)05): provision for forms**

The Committee:

- 1) approved the proposed amendments to CrimPR 5.1 and 5.2; and
- 2) agreed to omit those notes to rules which merely referred to the existence of a form.

**Agenda item 9 (paper (23)06): presentation of victim personal statement in a youth court**

The Committee:

- 1) agreed that any application should be made and determined, and directions given, at least a week before the sentencing hearing, preferably on the occasion of the court taking a guilty plea or finding a defendant guilty after a contested trial;
- 2) directed the adjustment of the draft rule accordingly; and
- 3) discussed the potential advantages and disadvantages of allowing such directions to be given by a legally qualified authorised court officer, but reached no consensus.

**Agenda item 10 (paper (23)07): citation of authorities in the Court of Appeal**

The Committee approved the proposed rule amendments.

**Agenda item 11 (paper (23)08): application to change legal aid representative**

The Committee:

- 1) approved for consultation as suggested the proposed rule amendments; and
- 2) agreed that the explanation of waiver of privilege which appeared in the current application form should be replaced as soon as possible with the simpler explanation used in the Easy Read version of the notice of appeal to the Court of Appeal.

**Agenda item 12 (paper (23)09): recording CrimPR Part 47 hearings in the Crown Court**

The Committee approved the proposed rule amendments.

**Agenda item 13 (paper (23)10): final adjustments to the new Criminal Practice Directions**

The Committee noted the report.

**Agenda item 14 (paper (23)11): preparation and publication of Committee minutes**

The Committee approved the proposed arrangements.

**Agenda item 15: other business**

No other business was raised.

**Dates of next meetings**

Friday 17<sup>th</sup> March, 2023, and  
Friday 28<sup>th</sup> April, 2023,

The meeting closed at 3.20pm