

CRIMINAL PROCEDURE RULE COMMITTEE

MEETING ON FRIDAY 28th APRIL, 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
Michael Snow	District Judge (Magistrates' Courts)
Louise Bryant	Lay justice
Max Hill KC	Director of Public Prosecutions
Paul Jarvis	Barrister
Shade Abiodun	Solicitor

Guests

Professor David Ormerod KC	University College, London
Katie Dean	HM Courts and Tribunals Service

Agenda item 1: welcome, announcements, apologies

The chairman welcomed all those attending, in person and by video conference. He welcomed in particular Katie Dean of HM Courts and Tribunals Service, attending for the discussion of item 9. He reported (i) the reappointments to the Committee of Paul Jarvis and Edmund Smyth, and (ii) the recent issue of the new Criminal Practice Directions, due to come into force on 29th May, 2023.

Apologies for absence were received from HH Judge Norton, Alison Pople KC and Edmund Smyth.

Agenda item 2: draft minutes of the meeting on 17th March, 2023

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) amendments to the live link application form, to make the confidential annexes a separate document.

- 2) amendments to the medical report commissioning directions forms, to encourage communication between report authors and HM Prison and Probation Service.
- 3) the production of a version of the magistrates' courts Preparation for Effective trial form that would be capable of accommodating information about three defendants pending introduction of CJS Common Platform online arrangements. The group had agreed upon a number of amendments.

Agenda item 4 (papers (23)24 & 37): online written procedures for allocation and sending

Agenda item 5 (paper (23)25): records of sending for trial

The Committee:

- 1) approved in principle the draft new rules, subject to maintaining the legislative status quo in relation to defendants jointly charged with an offence triable either way;
- 2) discussed the confusion liable to arise on the sending for Crown Court trial of related offences triable either way other than offences jointly charged but agreed to make no more extensive rules on the subject for the time being;
- 3) discussed practical arrangements for ensuring that cases requiring consideration by a District Judge (Magistrates' Courts) were referred to such a judge; and
- 4) noted the current uncertainty about exactly when the statutory amendments made by the Judicial Review and Courts Act 2022 would come into force, later this year or early next.

Agenda item 6 (paper (23)26): publication of information about online proceedings

The Committee:

- 1) discussed the publication under rule 5.11(1) of information about imminent hearings in magistrates' courts where such a hearing was the outcome of a written procedure; and
- 2) approved in principle the amended draft rule 5.11(3), (4), (5), subject to aligning the reference to directions about bail with the corresponding provision under rule 5.8(4)(c)(ii) ("the court's decision ... to grant or withhold bail, or to impose or vary a bail condition") so as to exclude details such as the defendant's home address.

Agenda item 7 (paper (23)27): supply of information from court records under legislation other than Criminal Procedure Rules

The Committee approved the proposed rule amendments.

Agenda item 8 (paper (23)28): defendant arrested for breach of bail

The Committee approved the proposed rule amendments.

Agenda item 9 (papers (23)29, 30 & 14): single justice procedure notice

The Committee received a report of the adoption by many, though not yet all, prosecutors who used the single justice procedure of an improved new form of notice, and of the commissioning of research into the different rates of response to such notices (which rate varied according to prosecutor and offence type). It was reported

that in traffic cases the response rate exceeded 50%, which was significantly higher than the response rate in some other types of case. It was reported that discussion was under way between HM Courts and Tribunals Service and, among others, the authors of paper (23)14, which Committee members had received at the previous meeting.

The Committee:

- 1) welcomed the report; and
- 2) recommended that the information leaflet to which the new form of single justice procedure notice referred should explain relevant avenues of appeal.

Agenda item 10 (paper (23)31): reading a victim personal statement in a youth court

The Committee approved the proposed rule amendments.

Agenda item 11 (paper (23)32): applications to vary, discharge etc. behaviour orders

The Committee approved the proposed rule amendments.

Agenda item 12 (paper (23)33): relisting an appeal to the Crown Court

The Committee agreed that in circumstances such as those described in the paper the prosecutor's usual reaction to an appellant's absence should be to prove the offence alleged. There was no need for another rule to accommodate what should be a wholly exceptional event.

Agenda item 13 (paper (23)34): change of legal aid representative

The Committee:

- 1) discussed the responses to the invitation to comment;
- 2) agreed that to convene a hearing of an application to change representative was an effective means of ensuring that sufficient information was made available to the court; and
- 3) approved the proposed amendments to the consultation draft rules accordingly.

Agenda item 14 (papers (23)35 & 36): content of June statutory instrument

The Committee approved the proposed content of the next Amendment Rules, subject to:

- 1) the inclusion of amendments to draft rules settled at this meeting; and
- 2) the resolution as soon as possible of the uncertainty about when there would come into force the statutory amendments that provided for online allocation and sending.

Agenda item 15: other business

No other business was raised.

Dates of next meetings

Friday 9th June, 2023 (rule-signing meeting), and
Friday 14th July, 2023.

The meeting closed at 3.20pm