

# CRIMINAL PROCEDURE RULE COMMITTEE

MEETING ON FRIDAY 10<sup>th</sup> NOVEMBER, 2023 at 1.30 p.m.

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

## MINUTES

### Present

#### *Committee members*

Lord Justice William Davis	Court of Appeal judge; chairman of the meeting
Lord Justice Holroyde	Court of Appeal judge; deputy chairman of the Committee
Mrs Justice Foster	High Court judge
HH Judge Field KC	Circuit judge
HH Judge Norton	Circuit judge
David Barrand	Magistrate
Stephen Parkinson	Director of Public Prosecutions
Alison Pople KC	Barrister
Paul Jarvis	Barrister
Shade Abiodun	Solicitor
Edmund Smyth	Solicitor
Rebecca White	Voluntary organisation representative

#### *Guests*

Nicholas Moss	Former Committee member
Professor David Ormerod KC	University College, London
Simon Bartlett	CJS Common Platform Programme

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

The chairman welcomed all those attending, in person and by video conference. He welcomed in particular Stephen Parkinson, the new Director of Public Prosecutions. He welcomed also Nicholas Moss, a former magistrate member of the Committee, attending for the discussion of agenda item 4, and Simon Bartlett of the CJS Common Platform Programme.

Apologies for absence were received from District Judge (Magistrates' Courts) Snow, Chief Constable Rob Nixon QPM and Robert Thomas.

The chairman reported with sorrow the recent death of Lord Judge, a former Lord Chief Justice and former chairman of the Committee.

### **Agenda item 2: draft minutes of the meeting on 6<sup>th</sup> October, 2023**

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

Arising from October item 4 (the 2025 Rules reform project), an initial meeting of the working group would take place on 27<sup>th</sup> November, chaired by Lord Justice Holroyde. The outcome would be reported to the next Committee meeting.

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

Mrs Justice Foster reported that the group had discussed:

- 1) a suggestion from judges at Southwark Crown Court that the sending for trial questionnaire should require confirmation that the defendant had been warned by the magistrates' court of potential trial in absence in the Crown Court in the event of failure to attend. It had been explained to the group that (i) such a warning always was given when a defendant was sent for trial on bail, and (ii) the confirmation requested could be added more quickly to the record of sending than to the sending for trial questionnaire; which would be done.
- 2) a further revised draft notice of application for a serious disruption prevention order. The group had approved the revision.
- 3) fourteen new forms of application for a range of investigation orders and warrants to supplement the National Security Act 2023. A number of detailed amendments were suggested and a request made that just one form of application and one form of notice of application should be devised for each of a production order, disclosure order, explanation order, customer information order and account monitoring order, respectively, under whichever of the Proceeds of Crime Act 2002, the Terrorism Act 2000 or the National Security Act 2023 was relied upon by the applicant; each designed to allow the applicant to indicate under which Act the application was submitted and to collect the relevant information under that Act. It was pointed out that the information required under each of those five types of application was substantially the same irrespective of which of those Acts applied, and that this would curtail a proliferation of forms.

### **Agenda item 4 (paper (23)65): a witness' experience**

The Committee:

- 1) thanked Mr Moss for his paper; noted his experience; shared his view that that unsatisfactory experience was by no means unique to him; agreed with his suggestions for improvement to the letter and telephone message precedents supplied to those responsible for witness care; and endorsed his request that the now wholly inadequate rates of allowable witness expenses should be reviewed urgently.
- 2) welcomed an oral report by the Director of Public Prosecutions of action being taken by the Crown Prosecution Service to improve the experience of victims and witnesses.

### **Agenda item 5 (paper (23)66): ISVAs and IDVAs**

The Committee:

- 1) discussed (i) concerns about the potential for distraction of a witness in a live link room when others were present, and (ii) the measures available to the court to avoid such a consequence;

- 2) amended the expression of the draft requirement to identify an advisor in private to the court; and
- 3) otherwise approved the rule amendments now proposed for inclusion in the forthcoming amendment rules.

**Agenda item 6 (paper (23)67): correcting court records**

The Committee discussed and approved the proposed rule amendments for inclusion in the forthcoming amendment rules.

**Agenda item 7 (paper (23)68): committal for sentence**

The Committee postponed discussion to the next meeting.

**Agenda item 8 (paper (23)69): disclosure**

The Committee discussed and approved the rule amendments now proposed for inclusion in the forthcoming amendment rules.

**Agenda item 9 (paper (23)70): editing video recording of cross-examination**

The Committee discussed and approved the proposed rule amendments, as now adjusted, for inclusion in the forthcoming amendment rules.

**Agenda item 10 (paper (23)71): JUSTICE report on behaviour orders**

The Committee:

- 1) discussed the report, and in particular the recommendation that civil, family and criminal procedure rules should correspond more closely with each other;
- 2) welcomed the steps already being taken by the Ministry of Justice to align procedure in family and civil proceedings on applications for domestic abuse protection orders; and
- 3) agreed that for the time being the Committee should take no further action.

**Agenda item 11 (paper (23)72): confiscation proceedings; costs in restraint proceedings – Law Commission recommendations**

The Committee:

- 1) agreed that a form of notice should be devised for use by a defendant under rule 33.13(3)(b); and
- 2) discussed and approved the rule amendments now proposed for inclusion in the forthcoming amendment rules, subject to the substitution of “and” for “or” in rule 45.7(6)(c).

**Agenda item 12 (paper (23)73): amendments to accommodate the Economic Crime and Corporate Transparency Act 2023**

The Committee discussed and approved the proposed rule amendments for inclusion in the forthcoming amendment rules.

**Agenda item 13 (paper (23)74): live links in extradition proceedings**

The Committee discussed and approved the rule amendments now proposed for inclusion in the forthcoming amendment rules.

**Agenda item 14 (paper (23)75): content of December statutory instrument**

The Committee approved the proposed content of the next Amendment Rules.

**Agenda item 15: other business**

The outcome of the initial meeting of the 2025 rule reform working group would be reported to the next Committee meeting.

The chairman invited requests and suggestions for other future business requiring discussion to be passed to the secretary.

**Dates of next meetings**

Friday 8<sup>th</sup> December, 2023 (at which meeting the Criminal Procedure (Amendment) Rules 2024 were due to be made); and  
Friday 2<sup>nd</sup> February, 2024.

The meeting closed at 2.35pm