

# CRIMINAL PROCEDURE RULE COMMITTEE

MEETING ON FRIDAY 15<sup>th</sup> MARCH, 2024 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 chair of the Committee; chair 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)
David Barrand	Magistrate
Amy McEvoy	Justices' legal adviser
Stephen Parkinson	Director of Public Prosecutions
Alison Pople KC	Barrister
Paul Jarvis	Barrister
Edmund Smyth	Solicitor
Rebecca White	Voluntary organisation representative
Robert Thomas	Voluntary organisation representative

#### *Guests*

Professor David Ormerod KC	University College, London
Simon Bartlett	CJS Common Platform Programme
Oliver Lendrum	Department for Business and Trade

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

The chair welcomed all those attending, in person and by video conference.

Apologies for absence were received from Shade Abiodun and Chief Constable Rob Nixon QPM.

### **Agenda item 2: draft minutes of the meeting on 2<sup>nd</sup> February, 2024**

The draft 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 considered five items:

- 1) a rewritten form of application for a special measures direction. Significant and helpful written and oral contributions had been made, in particular about provision for children and the requirements of the “primary rule”. The new form would be further developed and rearranged, for discussion again at the next meeting.
- 2) a revised draft form of notice for use by a defendant in confiscation proceedings, to alert a third party said by the defendant to have a shared property interest. The group had endorsed the revision, subject to elaboration of the warning to the third party about the potential consequences of failure to reply.
- 3) a new online, live link and telephone process, devised by HM Courts and Tribunals Service and tested successfully in pilot schemes, for taking a statutory declaration and dealing with the setting aside of a conviction in a magistrates’ court under the legislation to which CrimPR Part 44 applied. The group had been content with a proposed description of the statutory declaration to the court that would be required.
- 4) a draft form of notice of intention to apply for a domestic abuse protection order, and draft forms of application to vary or discharge such an order, based on existing forms used in connection with restraining orders. Further consideration would be given to the description of arrangements by means of which there would be served applications to vary made by defendants and by protected persons.
- 5) a proposal for the regular review of forms authorised for use in connection with Criminal Procedure Rules. The group had agreed to adopt suitable arrangements.

### **Agenda item 4 (paper (24)08, past paper (19)62): Civil Procedure Rule Committee consultation on access to court records**

The Committee:

- 1) noted the consultation and discussed access to court records;
- 2) agreed to consider a draft rule providing for an application to withhold information otherwise routinely available from court staff unless judicial approval first was obtained for the supply of that information; and
- 3) directed the preparation of draft amendments to rules 5.8 and 5.11 to make it clear that details such as the identity of a complainant, or the residence or reporting requirements of a defendant’s bail conditions, should not be available from court staff without judicial approval under rule 5.10 and should not be published.

**Agenda item 5 (paper (24)09): allocation and sending for trial, at a hearing or online**

The Committee:

- 1) agreed formally to make the proposed new Part 9 rules, subject to further amendments to rule 9.2 that corresponded more closely with the terms of the present section 51(1) to (12), Crime and Disorder Act 1998; and
- 2) agreed formally to make the proposed amendments to rule 5.11 (publication of information about online proceedings), subject to the further adjustment directed at agenda item 4.

**Agenda item 6 (paper (24)10, past paper (17)21): statutory time limits in prosecution bail and extradition appeals**

The Committee:

- 1) noted the recent judgments to which the Committee paper referred;
- 2) directed the preparation of an amendment to rule 4.11 that would postpone the time limit under that rule for service by email of an extradition appeal notice until the expiry of the statutory time limit as construed by case law.

**Agenda item 7 (paper (24)11): hearsay and direct evidence from a computer**

The Committee:

- 1) noted and discussed with interest the article to which the paper referred, remarking the substantial differences between (a) comparatively simple devices that used computer components, and (b) large national or international computer systems that depended upon complex relationships between component parts; and
- 2) reaffirmed previous decisions to amend no rules pending the outcome of the Post Office Horizon IT Inquiry.

**Agenda item 8 (paper (24)12): statutory requirement to suspend a short custodial sentence**

The Committee:

- 1) noted that the provisional rule amendments anticipated the outcome of Parliamentary consideration of the Sentencing Bill and were not for adoption yet;
- 2) discussed the relevant provisions of the Bill; and
- 3) approved the rule amendments in principle, subject to the progress of the Bill.

**Agenda item 9 (paper (24)13): prohibited steps order on conviction**

The Committee:

- 1) noted that the provisional rule amendments anticipated the outcome of Parliamentary consideration of the Victims and Prisoners Bill and were not for adoption yet;
- 2) discussed again the relevant provisions of the Bill; and
- 3) approved the rule amendments in principle, subject to the progress of the Bill.

**Agenda item 10 (paper (24)14): statutory powers to compel attendance at sentencing hearings**

The Committee:

- 1) noted that the provisional rule amendments anticipated the outcome of Parliamentary consideration of the Criminal Justice Bill and were not for adoption yet;
- 2) discussed the relevant provisions of the Bill;
- 3) directed the omission of the proposed rule requirement for court staff to enquire into a defendant's likely disposition in advance of the sentencing hearing, on grounds that experience demonstrated that that would be ineffectual; and
- 4) otherwise approved the rule amendments in principle, subject to the progress of the Bill.

**Agenda item 11 (paper (24)15): interventions, references and appeals about assimilated case law**

The Committee discussed and approved the proposed rule amendments for inclusion in the Amendment Rules to be made in June.

**Agenda item 12 (paper (24)16): contempt of court**

The Committee:

- 1) discussed the potential tension between recent guidance and the law as recently interpreted in the case of *R v Jordan*;
- 2) discussed the structure of proposed amendments to rule 48.5; and
- 3) agreed to postpone further Committee discussion pending the outcome of other discussions due to take place.

**Agenda item 13 (paper (24)17): extradition appeal – defective appeal notice**

The Committee:

- 1) discussed the revised amendments to rule 50.20 and to the associated paragraphs of the Criminal Practice Directions; and
- 2) subject to confirmation that Mr Justice Swift was content:
  - a) approved the proposed rule amendments for inclusion in the Amendment Rules to be made in June, and
  - b) endorsed the proposed Practice Direction amendments for submission to the Lady Chief Justice.

**Agenda item 14: other business**

The Committee discussed:

- 1) preparation of a template statement of allegations for use in contempt proceedings;
- 2) publication in a single, accessible, repository of judicial protocols and guidance;
- 3) provision for the users of forms to report errors and suggestions;
- 4) rights of appeal in relation to domestic abuse protection orders;

- 5) progress with discussion about the Criminal Procedure Rules 2025; and
- 6) progress with the introduction of the Preparation for Effective Trial form endorsed by the case management group for use in breach proceedings.

**Dates of next meetings**

Friday 26<sup>th</sup> April, 2024; and  
Friday 7<sup>th</sup> June, 2024.

The meeting closed at 3.15pm.