

CRIMINAL PROCEDURE RULE COMMITTEE

MEETING ON FRIDAY 8th NOVEMBER, 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 Oliver	District Judge (Magistrates' Courts)
David Barrand	Magistrate
Amy McEvoy	Justices' legal adviser
Stephen Parkinson	Director of Public Prosecutions
Jacob Hallam KC	Barrister
Paul Jarvis	Barrister
Shade Abiodun	Solicitor
Edmund Smyth	Solicitor

Guests

Paul Goldspring	Senior District Judge, Chief Magistrate
Professor David Ormerod KC	University College, London
Paul Duester	Serious Fraud Office
Amy Atkin	CJS Common Platform Programme
Danny Fischbach	CJS Common Platform Programme

Agenda item 1: welcome, announcements, apologies

The chair welcomed all those attending, in person and by video conference. He welcomed in particular Jacob Hallam KC attending for the first time as a Committee member.

He reported apologies for absence from Chief Constable Rob Nixon QPM, Rebecca White and Robert Thomas.

Agenda item 2: draft minutes of the meeting on 4th October, 2024

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

Agenda item 3: case management group report

The case management group had not met.

Agenda item 4 (paper (24)56): delegated waiver of defendant's right to attend

The Committee:

- 1) discussed the proposal and its potential advantages and disadvantages;
- 2) rejected its potential application in magistrates' courts; and
- 3) concluded that, in the Crown Court, practical difficulties outweighed potential advantages. Any delegated authority to waive a defendant's absence given as early as the plea and trial preparation hearing inevitably would be contingent on future events that would be better considered closer to the trial. Committee members would be willing to review any modified proposal but were not persuaded that the suggested amendments to rules or forms were likely to assist.

Agenda item 5 (paper (24)57): time for service by email where a statutory time limit applies which cannot be extended by the court

The Committee approved the proposal in principle but subject to redrafting:

- (a) to simplify the expression of the proposed new rule; and
- (b) to accommodate the possibility that a document sent by electronic means shortly before the expiry of an inflexible statutory time limit might not reach the intended recipient within that time limit because of delay or breakdown in the transmission.

Agenda item 6 (paper (24)58): notice to reporters of application for reporting restriction

The Committee:

- 1) reviewed the proposal and expressed renewed concern about the potentially disruptive consequences of postponing a hearing to allow media representations to be made which could be made later in any event, on an application to vary or remove restrictions temporarily imposed;
- 2) agreed that in members' experience applications for discretionary reporting restrictions were common, not infrequent;
- 3) agreed that the rules in their present terms already emphasised sufficiently the importance of considering media representations, subject to the court's discretion to exercise its substantive powers immediately where that was necessary to avoid injustice;
- 4) observed that the proposed amendments added nothing of substance to the existing rules but were likely to raise unreasonable expectations; and
- 5) for these reasons, declined to amend the rules as proposed.

Agenda item 7 (paper (24)59): order for access to bank documents

The Committee:

- 1) approved the proposed rule amendments; and

- 2) suggested amendments to the proposed application form, subject to discussion by the case management group in due course.

Agenda item 8 (paper (24)60): witness waiting in court

The Committee:

- 1) agreed that breach of the procedure rule would affect the weight to be attached to the evidence, and might lead to the exclusion of the evidence as unfair, but did not of itself render the evidence inadmissible; but
- 2) declined the suggestion that a note to that effect should be added to the rule.

Agenda item 9 (paper (24)61): confidential sentencing texts – a recent commentary

The Committee:

- 1) discussed the suggestion that more of the procedure based on general principle and followed in practice should be prescribed;
- 2) maintained the view taken during formulation of the current rule that any further prescription would impede, not assist, the fair and flexible application of current practice; and
- 3) observed that further prescription (i) would be inconsistent with past observations of the Court of Appeal, and (ii) had been shown to be unnecessary by recent cases.

Agenda item 10 (paper (24)62): reduction and variation of fine

The Committee approved the proposed rule amendment, subject to the substitution of “remit the whole or any part” for “reduce the amount”, to correspond with the statutory language.

Agenda item 11 (paper (24)63): costs in receivership proceedings

The Committee approved the proposed rule amendments.

Agenda item 12 (paper (24)64): contempt by obstruction, disruption, etc. – final amendments to current rules

The Committee:

- 1) discussed the extent of reasons required in the required announcement of a finding of contempt, having regard to the lack of transcription and other considerations affecting magistrates’ courts; and
- 2) approved the proposed rule amendments as now finally adjusted.

Agenda item 13 (paper (24)65): content of December 2024 statutory instrument

The Committee approved the proposed content of the next Amendment Rules, subject to the omission of rules the subject of agenda items 4, 5 and 6 above.

Agenda item 14: other business

The Committee:

- 1) welcomed the Chief Magistrate’s recent advice and guidance on dealing with contempt of court in magistrates’ courts;

- 2) agreed again to discuss the procedure for dealing with requests for non-statutory support for young or otherwise vulnerable witnesses.

Dates of next meetings

Friday 13th December, 2024 (at which the next Amendment Rules would be signed),
and

Friday 7th February, 2025.

The meeting closed at 3.05pm.