

A GUIDE TO THE CRIMINAL PROCEDURE (AMENDMENT) (No. 2) RULES 2026 (S.I. 2026/721)

Where to find the new rules

The Criminal Procedure (Amendment) (No. 2) Rules 2026 are at this address:

<https://www.legislation.gov.uk/ukxi/2026/721/contents/made>

When these Amendment Rules come into force the changes they make will be included in the [Criminal Procedure Rules 2025](#) and in the copies of the Criminal Procedure Rules published on the [Criminal Procedure Rules 2025 and Practice Directions 2023 page](#), too.

What the new rules are for

The new rules amend the Criminal Procedure Rules 2025. They:

- (a) clarify the judicial functions that can be exercised by a justices' legal adviser at the first hearing in a case.
- (b) in the rule about the issue of a summons by a magistrates' court, clarify the reference to circumstances in which the court should not issue a summons.
- (c) encourage action by court staff and courts to deal with outstanding warrants of arrest.
- (d) encourage the making of directions to protect the integrity of a hearing at which a video recording is made of pre-trial cross-examination.
- (e) codify recent case law requiring additional information from a private prosecutor who applies for costs from central funds.
- (f) accommodate, by cross-reference, note or other provision, recent legislation about (i) witness companions whose roles are specified in regulations, (ii) anonymity and reporting restrictions in respect of an authorised firearms officer, (iii) the announcement by a court of the opinion that an offence has involved domestic abuse, (iv) an order for a defendant to attend a sentencing hearing in the Crown Court, (v) an order in the Crown Court prohibiting a defendant's exercise of parental responsibility, (vi) extension of the period for which sentencing may be deferred, (vii) the creation and amendment of various behaviour orders, (viii) a new time limit for the reference by the Attorney General to the Court of Appeal of what the Attorney believes to be unduly lenient sentencing, (ix) powers for a Crown Court judge to order an internet protocol address provider or an internet domain registry to prevent access, and (x) proceedings for contempt of court in new circumstances.

When the new rules come into force

Some of the changes to the Criminal Procedure Rules made by these rules come into force on the date on which the legislation which they supplement comes into force. The rest of the changes come into force on 5 October 2026.

What is in the new rules

Exercise of judicial functions by justices' legal advisers

Part 6A of the Courts Act 2003 (Exercise of judicial functions by authorised persons) specifies criteria that must be satisfied before a judicial function can be exercised by a court officer, the first being that the function must be one that the relevant "rules of court" (so, Criminal Procedure Rules in criminal courts) permit to be exercised. Recommendation 101 in Part 2 of the *Independent Review of the Criminal Courts*¹ reads, "I recommend that His Majesty's Courts and Tribunals Service deploys legal advisers to sit alone in Not Guilty Anticipated Plea Courts. Work should recommence urgently with the Ministry of Justice to review the powers required by a legal adviser to enable this and the Criminal Procedure

¹ Published on 4th February, 2026 at <https://www.gov.uk/government/publications/independent-review-of-the-criminal-courts-part-2>.

Rules should be amended to provide legal advisers with all necessary powers, save only that contested allocation and bail decisions should continue to be handled by a Bench.”

Rule 2.8 of the Criminal Procedure Rules already allows justices’ legal advisers in magistrates’ courts to exercise most of the same functions as a magistrate in relation to case management, bail (except that a legal adviser cannot remand a defendant in custody) and allocation for trial. The Rule Committee reviewed that range of functions in the light of the recommendation. They decided that the only other powers needed to meet it were (i) the power to give a pre-trial ruling on a question of law, under section 8A of the Magistrates’ Courts Act 1980 (as long as neither party objects), (ii) the power to impose reporting restrictions (again, as long as neither party objects), and (iii) the power to impose an interim disqualification from driving under section 26 of the Road Traffic Offenders Act 1988 pending sentencing by magistrates (unless the defendant gives notice of their intention to make representations against disqualification, as allowed by that Act).

Witness companions

Rule 3.8 of the Criminal Procedure Rules recognises a court’s inherent power to allow a witness to be supported by a companion at court. The roles of companions for two specific purposes have been prescribed by the Victim Support (Specified Roles) Regulations since 2025, namely independent domestic violence advisers and independent sexual violence advisers. Recently there came into force provisions of the same regulations prescribing the role of an independent stalking advocate. The Rule Committee decided to amend rule 3.8 to refer now to all three prescribed types of companion.

Reporting restrictions

Part 6 of the Criminal Procedure Rules (Reporting, etc. restrictions) lists the different types of statutory reporting restriction and provides procedures for applications to make or vary those restrictions. Section 200 of the Crime and Policing Act 2026 creates new powers and obligations for courts to withhold the identity of an authorised firearms officer who is charged with a qualifying offence, and to impose reporting restrictions. The Rule Committee decided to amend the note to rule 6.1 of the Criminal Procedure Rules to include references to these new statutory powers.

Issue of a summons by a magistrates’ court

Under section 1 of the Magistrates’ Courts Act 1980 a magistrate can issue a summons or warrant requiring someone accused of a crime to attend court to be prosecuted. Rule 7.2 of the Criminal Procedure Rules lists the information that a prosecutor must provide to allow the magistrate to consider the application properly, if that prosecutor is not a public authority (public authorities include the police, the Crown Prosecution Service and local authorities). There are statutory time limits for the issue of a summons, and statutory restrictions on who is allowed to prosecute in some cases. Decisions by magistrates under section 1 of the 1980 Act may be challenged in the High Court, by the prosecutor or by the defendant. In judgments over many years the High Court has identified circumstances in which a summons or warrant ought not to be issued. Rule 7.2 presently includes a list of examples of those circumstances, which is a summary (but only a summary) of the case law.

In response to an enquiry from a member of the public the Rule Committee reviewed the rule and agreed to replace it with (i) a short statement of the principle that confines a magistrate’s power to issue a summons, and (ii) a list of examples of circumstances taken from case law, set out in a note to the rule to make it clear that the list is of examples only.

Outstanding arrest warrants

Sometimes a defendant attending court in a prosecution is the subject of an arrest warrant issued in another prosecution, perhaps at another court, because they have failed to attend court when required, or failed to pay an overdue fine, or for some other reason. HM Courts and Tribunals Service asked the Rule Committee to make a rule that would make it clear that it is not only permitted but required, in the interests of justice, that court staff should check

court records for outstanding arrest warrants as a matter of routine, and if one is found then the court should be asked to take such action as is appropriate in the individual circumstances. The Committee agreed.

Video recorded cross-examination: ancillary directions

Where a vulnerable or threatened witness has had their evidence in chief video recorded under section 27 of the Youth Justice and Criminal Evidence Act 1999 the court may give a special measures direction under section 28 of the Act to help the witness to give evidence by requiring their cross-examination to be video recorded, in advance of the trial, as well. At present, there are Criminal Procedure Rules about applications for special measures directions but none about the conduct of the court hearing at which the cross-examination is recorded.

In response to an enquiry from a member of the public the Rule Committee reviewed the present rules, taking account also of relevant potential new statutory provisions presently contained in clauses 12, 13, 14, 15 and 16 of the Courts and Tribunals Bill now before Parliament. The Committee decided to amend rule 18.8 of the Criminal Procedure Rules to encourage courts to give appropriate additional directions.

Announcement that an offence involved domestic violence

Section 6 of the Sentencing Act 2026 requires a court which is sentencing a defendant to announce its opinion if the court decides that the offence involved domestic abuse within the meaning of sections 1 and 2 of the Domestic Abuse Act 2021. These Rules (i) incorporate that requirement in magistrates' courts' and the Crown Court's sentencing procedures respectively, in rules 24.11 and 25.16 of the Criminal Procedure Rules, and (ii) amend rule 5.4 of the Criminal Procedure Rules to require a record to be made of such an announcement.

Order in the Crown Court for a defendant to attend sentencing

Section 1 of the Victims and Courts Act 2026 creates new statutory powers for the Crown Court to require a defendant to attend a sentencing hearing, and provides for penalties if the defendant refuses to do so. These Rules amend rule 25.16 of the Criminal Procedure Rules to supplement these new statutory powers.

Order in the Crown Court prohibiting a defendant's exercise of parental responsibility

Section 18 of the Victims and Prisoners Act 2024 amends the Children Act 1989 to require that where a defendant with parental responsibility for a child is convicted of the murder of the child's other parent, or convicted of the manslaughter of that other parent in circumstances in which but for loss of control or diminished responsibility the defendant would have been liable to be convicted of murder, the Crown Court must ordinarily make a "prohibited steps order" specifying that no step which could be taken by a parent in meeting their parental responsibility for a child may be taken by the defendant with respect to the child without the consent of the High Court or the family court. These Rules amend rule 25.16 of the Criminal Procedure Rules to supplement this new statutory obligation.

Deferment of sentence

Under section 3 of the Sentencing Act 2020 a court may defer sentencing a convicted defendant for the purpose of allowing it to take account of that defendant's subsequent conduct, or any change in that defendant's circumstances. A deferment order may impose requirements as to the defendant's conduct during the deferment period. By a recent amendment to the 2020 Act made by the Sentencing Act 2026 the maximum period of deferment was extended from 6 to 12 months. These Rules amend references to the period of deferment in rule 24.11 (magistrates' court trial) and rule 25.16 (Crown Court trial) of the Criminal Procedure Rules accordingly.

Behaviour orders

New and amended statutory provision made by the Border Security, Asylum and Immigration Act 2025 and the Crime and Policing Act 2026 amend serious crime prevention orders and stalking protection orders; create child criminal exploitation prevention orders; and affect electronic monitoring and other requirements available in connection with serious crime prevention orders and domestic abuse protection orders: all of them orders which the Criminal Procedure Rules describe as “behaviour orders”.

Part 31 of the Criminal Procedure Rules governs the procedure on applications for, and applications to vary, behaviour orders. These Rules amend rules in that Part to include references to the new and amended statutory provisions. These Rules also add to the note to rule 28.3 of the Criminal Procedure Rules references to new statutory obligations on defendants to notify the police of their names and addresses, and of some other details, where a serious crime prevention order or a stalking protection order is made, and to notify the police if any of those details change.

Attorney General’s reference of unduly lenient sentence

Under section 36 of the Criminal Justice Act 1988 if the Attorney General thinks that the sentencing of a defendant in the Crown Court is unduly lenient the Attorney may refer the case to the Court of Appeal where the sentence is one to which Part IV of the 1988 Act applies, and if the Court of Appeal gives permission. Until now, the statutory time limit for the Attorney’s application has been 28 days, under paragraph 1 of Schedule 3 to the 1988 Act. Recently, section 13 of the Victims and Courts Act 2026 extended the time limit where the Attorney General receives a request to refer sentencing shortly before the 28-day time limit expires. The time limit is incorporated in rule 41.2 of the Criminal Procedure Rules and these Rules bring it up to date.

Private prosecutors’ costs

A private prosecutor can recover their legal costs from public funds if the court so orders, irrespective of the outcome of the case but subject to any limit imposed by the court, under section 17 of the Prosecution of Offences Act 1985. Rule 45.4 of the Criminal Procedure Rules requires a prosecutor’s application to give the information specified in that rule.

In two cases last year, *R v BDI and Others*² and *R v Taktouk*³, the Court of Appeal dealt with failures of private prosecutors adequately to explain and to justify their costs claims. In each case the court reminded prosecutors of the importance of complying with current rules and (in words used in the judgment in *BDI*) referred to “the need for a court, when considering in relation to a significant prosecution whether to make any, and if so what, order under s17(1) of the POA 1985, to have regard to the steps taken by a private prosecutor to involve the state prosecuting authorities and to test the market for appropriate legal representation”. The Rule Committee noted the judgment and decided to incorporate those requirements into the current rules. These Rules amend rule 45.4 of the Criminal Procedure Rules accordingly.

Orders for the suspension of internet protocol addresses or internet domain names

Schedule 18 to the Crime and Policing Act 2026 creates a power for a Crown Court judge, on application by an investigator, to order an internet protocol address provider or an internet domain registry to prevent access for up to 12 months where an address or domain name is being used, in summary, in connection with serious crime. These applications have procedural features in common with applications for overseas production orders, which the rules in Section 10 of Part 47 of the Criminal Procedure Rules already accommodate. To accommodate the new legislation, the Rule Committee has made new rules that correspond with the existing rules about overseas production orders.

² <https://caselaw.nationalarchives.gov.uk/ewca/crim/2025/1289>.

³ <https://caselaw.nationalarchives.gov.uk/ewca/crim/2025/1473>.

Contempt of court as a sanction in new circumstances

Under new legislation mentioned above a defendant who refuses to attend for sentencing in the Crown Court, and a person who disobeys an order made by a judge preventing access to an Internet Protocol address or Internet domain name, each may be punished for contempt of court. Part 48 of the Criminal Procedure Rules governs the procedure. These Rules add references to the new legislation to the rules in that Part.

Criminal Procedure Rule Committee secretariat
14 August 2026