
STATUTORY INSTRUMENTS

2015 No. 1490

The Criminal Procedure Rules 2015

PART 3

CASE MANAGEMENT

GENERAL RULES

When this Part applies

3.1.—(1) Rules 3.1 to 3.12 apply to the management of each case in a magistrates' court and in the Crown Court (including an appeal to the Crown Court) until the conclusion of that case.

(2) Rules 3.13 to 3.26 apply where—

- (a) the defendant is sent to the Crown Court for trial;
- (b) a High Court or Crown Court judge gives permission to serve a draft indictment; or
- (c) the Court of Appeal orders a retrial.

[Note. Rules that apply to procedure in the Court of Appeal are in Parts 36 to 42 of these Rules.

A magistrates' court may send a defendant for trial in the Crown Court under section 51 or 51A of the Crime and Disorder Act 1998(1). See Part 9 for the procedure on allocation and sending for trial.

Under paragraph 2(1) of Schedule 17 to the Crime and Courts Act 2013(2) and section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933(3), the Crown Court may give permission to serve a draft indictment where it approves a deferred prosecution agreement. See Part 11 for the rules about that procedure and Part 10 for the rules about indictments.

The procedure for applying for the permission of a High Court judge to serve a draft indictment is in rules 6 to 10 of the Indictments (Procedure) Rules 1971(4). See also the Practice Direction.

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- (1) 1998 c. 37; section 51 was substituted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 59 of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4). Section 51A was inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 49 of, and paragraph 5 of Schedule 1 to, the Violent Crime Reduction Act 2006 (c. 38) and paragraph 6 of Schedule 21 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
 - (2) 2013 c. 22.
 - (3) 1933 c. 36; section 2 was amended by Part IV of Schedule 11 to, the Courts Act 1971 (c. 23), Schedule 5 to, the Senior Courts Act 1981 (c. 54), Schedule 2 to the Prosecution of Offences Act 1985 (c. 23), paragraph 1 of Schedule 2 to the Criminal Justice Act 1987 (c. 38), paragraph 10 of Schedule 15 to the Criminal Justice Act 1988 (c. 33), paragraph 8 of Schedule 6 to the Criminal Justice Act 1991 (c. 53), Schedule 1 to the Statute Law (Repeals) Act 1993, paragraph 17 of Schedule 1 to the Criminal Procedure and Investigations Act 1996 (c. 25), paragraph 5 of Schedule 8 to the Crime and Disorder Act 1998 (c. 37), paragraph 34 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), paragraph 1 of the Schedule to S.I. 2004/2035, section 12 of, and paragraph 7 of Schedule 1 to, the Constitutional Reform Act 2005 (c. 4), sections 116 and 178 of, and Part 3 of Schedule 23 to, the Coroners and Justice Act 2009 (c. 25), paragraph 32 of Schedule 17 to the Crime and Courts Act 2013 (c. 22) and section 82 of the Deregulation Act 2015 (c. 20).
 - (4) S. I. 1971/2084; amended by S.I. 1997/711, 2000/3360.

The Court of Appeal may order a retrial under section 8 of the Criminal Appeal Act 1968⁽⁵⁾ (on a defendant's appeal against conviction) or under section 77 of the Criminal Justice Act 2003⁽⁶⁾ (on a prosecutor's application for the retrial of a serious offence after acquittal). Section 8 of the 1968 Act, section 84 of the 2003 Act and rules 27.6 and 39.14 require the arraignment of a defendant within 2 months.]

The duty of the court

- 3.2.**—(1) The court must further the overriding objective by actively managing the case.
- (2) Active case management includes—
- (a) the early identification of the real issues;
 - (b) the early identification of the needs of witnesses;
 - (c) achieving certainty as to what must be done, by whom, and when, in particular by the early setting of a timetable for the progress of the case;
 - (d) monitoring the progress of the case and compliance with directions;
 - (e) ensuring that evidence, whether disputed or not, is presented in the shortest and clearest way;
 - (f) discouraging delay, dealing with as many aspects of the case as possible on the same occasion, and avoiding unnecessary hearings;
 - (g) encouraging the participants to co-operate in the progression of the case; and
 - (h) making use of technology.
- (3) The court must actively manage the case by giving any direction appropriate to the needs of that case as early as possible.

The duty of the parties

- 3.3.**—(1) Each party must—
- (a) actively assist the court in fulfilling its duty under rule 3.2, without or if necessary with a direction; and
 - (b) apply for a direction if needed to further the overriding objective.
- (2) Active assistance for the purposes of this rule includes—
- (a) at the beginning of the case, communication between the prosecutor and the defendant at the first available opportunity and in any event no later than the beginning of the day of the first hearing;
 - (b) after that, communication between the parties and with the court officer until the conclusion of the case;
 - (c) by such communication establishing, among other things—
 - (i) whether the defendant is likely to plead guilty or not guilty,
 - (ii) what is agreed and what is likely to be disputed,
 - (iii) what information, or other material, is required by one party of another, and why, and

(5) 1968 c. 19; section 8 was amended by Section 12 of, and paragraph 38 of Schedule 2 to, the Bail Act 1976 (c. 63), section 56 of, and Part IV of Schedule 11 to, the Courts Act 1971 (c. 23), section 65 of, and paragraph 36 of Schedule 3 to, the Mental Health (Amendment) Act 1982 (c. 51), section 148 of, and paragraph 23 of Schedule 4 to, the Mental Health Act 1983 (c. 20), section 43 of the Criminal Justice Act 1988 (c. 33), section 168 of, and paragraph 19 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 58 of the Access to Justice Act 1999 (c. 22), sections 41 and 332 of, and paragraph 43 of Schedule 3 to, and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44) and section 32 of, and paragraph 2 of Schedule 4 to, the Mental Health Act 2007 (c. 12).

(6) 2003 c. 44.

- (iv) what is to be done, by whom, and when (without or if necessary with a direction); and
- (d) reporting on that communication to the court—
 - (i) at the first hearing, and
 - (ii) after that, as directed by the court.

Case progression officers and their duties

- 3.4.**—(1) At the beginning of the case each party must, unless the court otherwise directs—
- (a) nominate someone responsible for progressing that case; and
 - (b) tell other parties and the court who that is and how to contact that person.
- (2) In fulfilling its duty under rule 3.2, the court must where appropriate—
- (a) nominate a court officer responsible for progressing the case; and
 - (b) make sure the parties know who that is and how to contact that court officer.
- (3) In this Part a person nominated under this rule is called a case progression officer.
- (4) A case progression officer must—
- (a) monitor compliance with directions;
 - (b) make sure that the court is kept informed of events that may affect the progress of that case;
 - (c) make sure that he or she can be contacted promptly about the case during ordinary business hours;
 - (d) act promptly and reasonably in response to communications about the case; and
 - (e) if he or she will be unavailable, appoint a substitute to fulfil his or her duties and inform the other case progression officers.

The court's case management powers

3.5.—(1) In fulfilling its duty under rule 3.2 the court may give any direction and take any step actively to manage a case unless that direction or step would be inconsistent with legislation, including these Rules.

- (2) In particular, the court may—
- (a) nominate a judge, magistrate or justices' legal adviser to manage the case;
 - (b) give a direction on its own initiative or on application by a party;
 - (c) ask or allow a party to propose a direction;
 - (d) for the purpose of giving directions, receive applications and representations by letter, by telephone or by any other means of electronic communication, and conduct a hearing by such means;
 - (e) give a direction—
 - (i) at a hearing, in public or in private, or
 - (ii) without a hearing;
 - (f) fix, postpone, bring forward, extend, cancel or adjourn a hearing;
 - (g) shorten or extend (even after it has expired) a time limit fixed by a direction;
 - (h) require that issues in the case should be—
 - (i) identified in writing,
 - (ii) determined separately, and decide in what order they will be determined; and

- (i) specify the consequences of failing to comply with a direction.
- (3) A magistrates' court may give a direction that will apply in the Crown Court if the case is to continue there.
- (4) The Crown Court may give a direction that will apply in a magistrates' court if the case is to continue there.
- (5) Any power to give a direction under this Part includes a power to vary or revoke that direction.
- (6) If a party fails to comply with a rule or a direction, the court may—
 - (a) fix, postpone, bring forward, extend, cancel or adjourn a hearing;
 - (b) exercise its powers to make a costs order; and
 - (c) impose such other sanction as may be appropriate.

[Note. Depending upon the nature of a case and the stage that it has reached, its progress may be affected by other Criminal Procedure Rules and by other legislation. The note at the end of this Part lists other rules and legislation that may apply.]

See also rule 3.9 (Case preparation and progression).

The court may make a costs order under—

- (a) *section 19 of the Prosecution of Offences Act 1985(7), where the court decides that one party to criminal proceedings has incurred costs as a result of an unnecessary or improper act or omission by, or on behalf of, another party;*
- (b) *section 19A of that Act(8), where the court decides that a party has incurred costs as a result of an improper, unreasonable or negligent act or omission on the part of a legal representative;*
- (c) *section 19B of that Act(9), where the court decides that there has been serious misconduct by a person who is not a party.*

Under some other legislation, including Parts 19, 20 and 21 of these Rules, if a party fails to comply with a rule or a direction then in some circumstances—

- (a) *the court may refuse to allow that party to introduce evidence;*
- (b) *evidence that that party wants to introduce may not be admissible;*
- (c) *the court may draw adverse inferences from the late introduction of an issue or evidence.*

See also—

- (a) *section 81(1) of the Police and Criminal Evidence Act 1984(10) and section 20(3) of the Criminal Procedure and Investigations Act 1996(11) (advance disclosure of expert evidence);*

(7) 1985 c. 23; section 19 was amended by section 166 of the Criminal Justice Act 1988 (c. 33), section 45 of, and Schedule 6 to, the Legal Aid Act 1988 (c. 34), section 7 of, and paragraph 8 of Schedule 3 to, the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25), section 24 of, and paragraphs 27 and 28 of Schedule 4 to, the Access to Justice Act 1999 (c. 22), sections 40 and 67 of, and paragraph 4 of Schedule 7 to, the Youth Justice and Criminal Evidence Act 1999 (c. 23), section 165 of, and paragraph 99 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 378 of, and paragraph 107 of Schedule 16 to, the Armed Forces Act 2006 (c. 52), section 6 of, and paragraph 32 of Schedule 4 and paragraphs 1 and 5 of Schedule 27 to, the Criminal Justice and Immigration Act 2008 (c. 4) and paragraphs 22 and 23 of Schedule 5, and paragraphs 1 and 5 and Part 4 of Schedule 7, to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(8) 1985 c. 23; section 19A was inserted by section 111 of the Courts and Legal Services Act 1990 (c. 41).

(9) 1985 c. 23; section 19B was inserted by section 93 of the Courts Act 2003 (c. 39).

(10) 1984 c. 60; section 81(1) was amended by section 109(1) of, and paragraph 286 of Schedule 8 to, the Courts Act 2003 (c.39).

(11) 1996 c. 25; section 20(3) was amended by section 109(1) of, and paragraph 378 of Schedule 8 to, the Courts Act 2003 (c.39).

- (b) *section 11(5) of the Criminal Procedure and Investigations Act 1996*(12) (*faults in disclosure by accused*);
- (c) *section 132(5) of the Criminal Justice Act 2003*(13) (*failure to give notice of hearsay evidence*).]

Application to vary a direction

- 3.6.**—(1) A party may apply to vary a direction if—
- (a) the court gave it without a hearing;
 - (b) the court gave it at a hearing in that party’s absence; or
 - (c) circumstances have changed.
- (2) A party who applies to vary a direction must—
- (a) apply as soon as practicable after becoming aware of the grounds for doing so; and
 - (b) give as much notice to the other parties as the nature and urgency of the application permits.

Agreement to vary a time limit fixed by a direction

- 3.7.**—(1) The parties may agree to vary a time limit fixed by a direction, but only if—
- (a) the variation will not—
 - (i) affect the date of any hearing that has been fixed, or
 - (ii) significantly affect the progress of the case in any other way;
 - (b) the court has not prohibited variation by agreement; and
 - (c) the court’s case progression officer is promptly informed.
- (2) The court’s case progression officer must refer the agreement to the court if in doubt that the condition in paragraph (1)(a) is satisfied.

Court’s power to vary requirements under this Part

- 3.8.**—(1) The court may—
- (a) shorten or extend (even after it has expired) a time limit set by this Part; and
 - (b) allow an application or representations to be made orally.
- (2) A person who wants an extension of time must—
- (a) apply when serving the application or representations for which it is needed; and
 - (b) explain the delay.

Case preparation and progression

- 3.9.**—(1) At every hearing, if a case cannot be concluded there and then the court must give directions so that it can be concluded at the next hearing or as soon as possible after that.
- (2) At every hearing the court must, where relevant—
- (a) if the defendant is absent, decide whether to proceed nonetheless;
 - (b) take the defendant’s plea (unless already done) or if no plea can be taken then find out whether the defendant is likely to plead guilty or not guilty;

(12) 1996 c. 25; section 11 was substituted by section 39 of the Criminal Justice Act 2003 (c. 44) and amended by section 60 of the Criminal Justice and Immigration Act 2008 (c. 4).

(13) 2003 c. 44.

- (c) set, follow or revise a timetable for the progress of the case, which may include a timetable for any hearing including the trial or (in the Crown Court) the appeal;
 - (d) in giving directions, ensure continuity in relation to the court and to the parties' representatives where that is appropriate and practicable; and
 - (e) where a direction has not been complied with, find out why, identify who was responsible, and take appropriate action.
- (3) In order to prepare for the trial, the court must take every reasonable step—
- (a) to encourage and to facilitate the attendance of witnesses when they are needed; and
 - (b) to facilitate the participation of any person, including the defendant.
- (4) Facilitating the participation of the defendant includes finding out whether the defendant needs interpretation because—
- (a) the defendant does not speak or understand English; or
 - (b) the defendant has a hearing or speech impediment.
- (5) Where the defendant needs interpretation—
- (a) the court officer must arrange for interpretation to be provided at every hearing which the defendant is due to attend;
 - (b) interpretation may be by an intermediary where the defendant has a speech impediment, without the need for a defendant's evidence direction;
 - (c) on application or on its own initiative, the court may require a written translation to be provided for the defendant of any document or part of a document, unless—
 - (i) translation of that document, or part, is not needed to explain the case against the defendant, or
 - (ii) the defendant agrees to do without and the court is satisfied that the agreement is clear and voluntary and that the defendant has had legal advice or otherwise understands the consequences;
 - (d) on application by the defendant, the court must give any direction which the court thinks appropriate, including a direction for interpretation by a different interpreter, where—
 - (i) no interpretation is provided,
 - (ii) no translation is ordered or provided in response to a previous application by the defendant, or
 - (iii) the defendant complains about the quality of interpretation or of any translation.
- (6) Facilitating the participation of any person includes giving directions for the appropriate treatment and questioning of a witness or the defendant, especially where the court directs that such questioning is to be conducted through an intermediary.
- (7) Where directions for appropriate treatment and questioning are required, the court must—
- (a) invite representations by the parties and by any intermediary; and
 - (b) set ground rules for the conduct of the questioning, which rules may include—
 - (i) a direction relieving a party of any duty to put that party's case to a witness or a defendant in its entirety,
 - (ii) directions about the manner of questioning,
 - (iii) directions about the duration of questioning,
 - (iv) if necessary, directions about the questions that may or may not be asked,
 - (v) where there is more than one defendant, the allocation among them of the topics about which a witness may be asked, and

- (vi) directions about the use of models, plans, body maps or similar aids to help communicate a question or an answer.

[Note. Part 18 (Measures to assist a witness or defendant to give evidence) contains rules about an application for a defendant's evidence direction under (among other provisions) sections 33BA and 33BB of the Youth Justice and Criminal Evidence Act 1999(14).

See also Directive 2010/64/EU of the European Parliament and of the Council of 20th October, 2010, on the right to interpretation and translation in criminal proceedings(15).

Where a trial in the Crown Court will take place in Wales and a participant wishes to use the Welsh language, see rule 3.26. Where a trial in a magistrates' court will take place in Wales, a participant may use the Welsh language: see rule 24.14.]

Readiness for trial or appeal

3.10.—(1) This rule applies to a party's preparation for trial or appeal, and in this rule and rule 3.11 'trial' includes any hearing at which evidence will be introduced.

- (2) In fulfilling the duty under rule 3.3, each party must—
 - (a) comply with directions given by the court;
 - (b) take every reasonable step to make sure that party's witnesses will attend when they are needed;
 - (c) make appropriate arrangements to present any written or other material; and
 - (d) promptly inform the court and the other parties of anything that may—
 - (i) affect the date or duration of the trial or appeal, or
 - (ii) significantly affect the progress of the case in any other way.
- (3) The court may require a party to give a certificate of readiness.

Conduct of a trial or an appeal

- 3.11.** In order to manage a trial or an appeal, the court—
- (a) must establish, with the active assistance of the parties, what are the disputed issues;
 - (b) must consider setting a timetable that—
 - (i) takes account of those issues and of any timetable proposed by a party, and
 - (ii) may limit the duration of any stage of the hearing;
 - (c) may require a party to identify—
 - (i) which witnesses that party wants to give evidence in person,
 - (ii) the order in which that party wants those witnesses to give their evidence,
 - (iii) whether that party requires an order compelling the attendance of a witness,
 - (iv) what arrangements are desirable to facilitate the giving of evidence by a witness,
 - (v) what arrangements are desirable to facilitate the participation of any other person, including the defendant,
 - (vi) what written evidence that party intends to introduce,

(14) 1999 c. 23; sections 33BA and 33BB are inserted by section 104 of the Coroners and Justice Act 2009 (c. 25), with effect from a date to be appointed.

(15) OJ L 280, 26.10.2010, p.1.

- (vii) what other material, if any, that person intends to make available to the court in the presentation of the case, and
- (viii) whether that party intends to raise any point of law that could affect the conduct of the trial or appeal; and
- (d) may limit—
 - (i) the examination, cross-examination or re-examination of a witness, and
 - (ii) the duration of any stage of the hearing.

[Note. See also rules 3.5 (The court's case management powers) and 3.9 (Case preparation and progression).]

Duty of court officer

3.12. The court officer must—

- (a) where a person is entitled or required to attend a hearing, give as much notice as reasonably practicable to—
 - (i) that person, and
 - (ii) that person's custodian (if any);
- (b) where the court gives directions, promptly make a record available to the parties.

[Note. See also rule 5.7 (Supply to a party of information or documents from records or case materials).]