
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 18

[^{F1}Measures to help a witness or defendant to give evidence or otherwise participate]

^{F1}INTERMEDIARY FOR A DEFENDANT

F1 Rule 18.27-18.32 and cross-headings inserted (5.4.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2(b), 9(k)

Appointment of intermediary to facilitate a defendant's participation

[^{F2}18.23].—(1) The court must exercise its power to appoint an intermediary to facilitate a defendant's effective participation in the trial where—

- (a) the defendant's ability to participate is likely to be diminished by reason of—
 - (i) age, if the defendant is under 18, or
 - (ii) mental disorder (as defined in section 1(2) of the Mental Health Act 1983), a significant impairment of intelligence and social functioning, or a physical disability or disorder; and
 - (b) the appointment is necessary for that purpose.
- (2) In determining whether such an appointment is necessary, who to appoint and the duration or purpose of the appointment, the court must have regard to—
- (a) the defendant's communication needs as reported to the court;
 - (b) the recommendations in any intermediary's report received by the court;
 - (c) any views that the defendant has expressed about—
 - (i) receiving the assistance of an intermediary,
 - (ii) other measures or arrangements to facilitate the defendant's effective participation in the trial;
 - (d) the likely impact of the defendant's age, if under 18, level of intellectual ability or social functioning on the ability to—
 - (i) give evidence, and
 - (ii) understand what is said and done by the court and other participants;
 - (e) the likely impact on such participation and on such understanding of any mental disorder or other significant impairment of intelligence or social functioning;
 - (f) the adequacy of arrangements for questioning the defendant in the absence of an intermediary;
 - (g) any assistance that the defendant has received in the past—

- (i) while giving evidence in legal proceedings,
 - (ii) while being questioned during the investigation of an alleged offence, or
 - (iii) as a defendant in a criminal case;
- (h) any assessment of the defendant's health by a mental health practitioner acting independently of the parties to assist the court;
- (i) any expert medical opinion that the court may have received; and
 - (j) any other matter that the court thinks relevant.
- (3) The court may exercise its power to appoint an intermediary—
- (a) for the duration of every hearing that the defendant is due to attend;
 - (b) for the duration of any specified such hearing or hearings, or for the duration of a specified part of such a hearing; or
 - (c) for a specified purpose during a hearing.
- (4) Unless the court otherwise directs, the appointment of an intermediary extends to facilitating the defendant's communication with that defendant's legal representatives for the duration and for the purpose of the appointment.
- (5) The court may decide whether to appoint an intermediary to facilitate a defendant's effective participation in the trial and whether to vary or discharge any such appointment—
- (a) on application or on the court's own initiative;
 - (b) at a hearing, in public or in private, or without a hearing; and
 - (c) in a party's absence, if that party—
 - (i) applied for the appointment, variation or discharge, or
 - (ii) has had at least 10 business days in which to make representations.
- (6) The court must not exercise its power to vary or discharge a direction for the appointment of an intermediary unless satisfied that—
- (a) since the direction was made—
 - (i) the defendant's communication needs have changed materially, or
 - (ii) any other material circumstance has changed materially; and
 - (b) the defendant will be able to participate effectively in the trial despite the variation or discharge of the direction.

F2 Original rule 18.23 omitted and rule 18.27 renumbered as rule 18.23 (15.8.2022) by virtue of [The Criminal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/815\)](#), rules 2(g), 12(h)(i)

Application to vary or discharge the appointment of an intermediary for a defendant

- [^{f3}**18.24].—(1)** A party who wants the court to vary or discharge the appointment of an intermediary to facilitate a defendant's effective participation in the trial must—
- (a) apply in writing, as soon as reasonably practicable after becoming aware of the grounds for doing so; and
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) each other party.
- (2) The applicant must—

- (a) explain how the criteria listed in rule [^{F4}rule 18.23(6)] are met (variation or discharge of appointment); and
- (b) ask for a hearing, if the applicant wants one, and explain why it is needed.

F3 Original rule 18.24 omitted and rule 18.28 renumbered as rule 18.24 (15.8.2022) by virtue of [The Criminal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/815\), rules 2\(g\), 12\(h\)\(i\)](#)

F4 Words in [rule 18.24](#) substituted (15.8.2022) by virtue of [The Criminal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/815\), rules 2\(g\), 12\(j\)](#)

Representations in response to application or proposal

- [^{F5}**18.25**.—(1) This rule applies where a party wants to make representations about—
- (a) an application or proposal for the appointment of an intermediary to facilitate a defendant's effective participation in the trial; or
 - (b) an application or proposal for the variation or discharge of such an appointment.
- (2) Such a party must—
- (a) serve the representations on—
 - (i) the court officer, and
 - (ii) each other party;
 - (b) do so not more than 10 business days after, as applicable—
 - (i) service of the application, or
 - (ii) notice of the appointment, variation or discharge that the court proposes; and
 - (c) ask for a hearing, if that party wants one, and explain why it is needed.
- (3) Representations against such an appointment, variation or discharge must explain why the criteria that apply are not met.]

F5 Original rule 18.25 omitted and rule 18.29 renumbered as rule 18.25 (15.8.2022) by virtue of [The Criminal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/815\), rules 2\(g\), 12\(h\)\(i\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, Cross Heading: INTERMEDIARY FOR A DEFENDANT.