
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 15

DISCLOSURE

Prosecutor's application for public interest ruling

- 15.3.**—(1) This rule applies where—
- (a) without a court order, the prosecutor would have to disclose material; and
 - (b) the prosecutor wants the court to decide whether it would be in the public interest to disclose it.
- (2) The prosecutor must—
- (a) apply in writing for such a decision; and
 - (b) serve the application on—
 - (i) the court officer,
 - (ii) any person who the prosecutor thinks would be directly affected by disclosure of the material, and
 - (iii) the defendant, but only to the extent that serving it on the defendant would not disclose what the prosecutor thinks ought not be disclosed.
- (3) The application must—
- (a) describe the material, and explain why the prosecutor thinks that—
 - (i) it is material that the prosecutor would have to disclose,
 - (ii) it would not be in the public interest to disclose that material, and
 - (iii) no measure such as the prosecutor's admission of any fact, or disclosure by summary, extract or edited copy, adequately would protect both the public interest and the defendant's right to a fair trial;
 - (b) omit from any part of the application that is served on the defendant anything that would disclose what the prosecutor thinks ought not be disclosed (in which case, paragraph (4) of this rule applies); and
 - (c) explain why, if no part of the application is served on the defendant.
- (4) Where the prosecutor serves only part of the application on the defendant, the prosecutor must—
- (a) mark the other part, to show that it is only for the court; and
 - (b) in that other part, explain why the prosecutor has withheld it from the defendant.
- (5) Unless already done, the court may direct the prosecutor to serve an application on—
- (a) the defendant; and

- (b) any other person who the court considers would be directly affected by the disclosure of the material.
- (6) The court must determine the application at a hearing which—
 - (a) must be in private, unless the court otherwise directs; and
 - (b) if the court so directs, may take place, wholly or in part, in the defendant’s absence.
- (7) At a hearing at which the defendant is present—
 - (a) the general rule is that the court must consider, in the following sequence—
 - (i) representations first by the prosecutor and any other person served with the application, and then by the defendant, in the presence of them all, and then
 - (ii) further representations by the prosecutor and any such other person in the defendant’s absence; but
 - (b) the court may direct other arrangements for the hearing.
- (8) The court may only determine the application if satisfied that it has been able to take adequate account of—
 - (a) such rights of confidentiality as apply to the material; and
 - (b) the defendant’s right to a fair trial.
- (9) Unless the court otherwise directs, the court officer—
 - (a) must not give notice to anyone other than the prosecutor—
 - (i) of the hearing of an application under this rule, unless the prosecutor served the application on that person, or
 - (ii) of the court’s decision on the application; and
 - (b) may—
 - (i) keep a written application or representations, or
 - (ii) arrange for the whole or any part to be kept by some other appropriate person, subject to any conditions that the court may impose.

[Note. The court’s power to order that it is not in the public interest to disclose material is provided for by sections 3(6), 7(6) (where the investigation began between 1st April, 1997 and 3rd April, 2005) and 7A(8) (where the investigation began on or after 4th April, 2005) of the Criminal Procedure and Investigations Act 1996(1).

See also sections 16 and 19 of the 1996 Act(2).]

(1) 1996 c. 25; section 7 was repealed by sections 331 and 332 of, and paragraphs 20 and 25 of Schedule 36 and Part 3 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with transitional provisions for certain offences in article 2 of S.I. 2005/1817. Section 7A was inserted by section 37 of the Criminal Justice Act 2003 (c. 44).

(2) 1996 c. 25; section 16 was amended by section 331 of, and paragraphs 20 and 32 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44). Section 19 was amended by section 109 of, and paragraph 377 of Schedule 8 to, the Courts Act 2003 (c. 39), section 331 of, and paragraphs 20 and 34 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44) and section 15 of, and paragraph 251 of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4).