

**2021 No. 626 (L. 10)**

**MAGISTRATES' COURTS, ENGLAND AND WALES**

**The Magistrates' Courts (Amendment No. 2) Rules 2021**

*Made* - - - - 24th May 2021

*Laid before Parliament* 27th May 2021

*Coming into force* - - 28th June 2021

The Lord Chief Justice, with the concurrence of the Lord Chancellor, makes the following Rules in exercise of the powers conferred by section 144 of the Magistrates' Courts Act 1980(a).

**Citation, commencement and interpretation**

**1.**—(1) These Rules may be cited as the Magistrates' Courts (Amendment No. 2) Rules 2021 and shall come into force on 28th June 2021.

(2) In rule 2 of these Rules, a reference to a rule by number alone means the rule so numbered in the Magistrates' Courts Rules 1981(b).

**Amendments to the Magistrates' Courts Rules 1981**

**2.**—(1) The Magistrates' Courts Rules 1981 are amended as follows.

(2) In rule 2 (interpretation), in paragraph (1), after the definition of “judgment summons” insert—

““live link” means an arrangement by which—

- (a) a person (P) taking part in proceedings can hear, or can see and hear, every other person taking part in those proceedings who is not in the same location as P; and
- (b) all those other people can hear, or can see and hear, P;”.

(3) In rule 3A (case management), in paragraph (1)(h) after “making use of technology” insert “, including live links”.

(4) After rule 3A, insert—

**“Live links**

**3B.**—(1) The court may exercise its power to allow or require anyone, including any member or members of the court, to take part in proceedings by live link—

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- (a) 1980 c. 43; section 144 was amended by section 109(1) and (3) and paragraphs 245(1), (2), (5) of Schedule 8 and Schedule 10 to the Courts Act 2003, section 15(1) and paragraphs 99, 102(1), (2), (3)(a), (3)(b), (4) and (6) of Schedule 4 to the Constitutional Reform Act 2005, section 208(1) and paragraphs 42, 43(b) of Schedule 21 to the Legal Services Act 2007, article 3(2) and paragraphs 1(1), (2) to (6) of Schedule 2 to S.I. 2012/2398, section 17(6) and paragraphs 39, 52 and 99 of Schedule 10 to the Crime and Courts Act 2013 and section 3 and paragraphs 5 and 10 of the Schedule to the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018.
  - (b) S.I. 1981/552; relevant amendments were made by S.I. 1986/1332, 1992/457, 1992/709, 1997/706, 2001/610, 2003/3361, 2005/617 and 2009/3362.

- (a) on application or on the court’s own initiative; and
  - (b) as long as the court is satisfied that it is in the interests of justice to exercise that power in that way.
- (2) Unless the court otherwise directs—
- (a) a person who takes part in proceedings by live link must be treated as present; and
  - (b) where a member of the court takes part in proceedings by live link those proceedings must be treated as taking place—
    - (i) at any place at which the court lawfully can sit in England and Wales, and
    - (ii) at any such place as the designated officer advertises under rule 66E(2)(a).”
- (5) For rules 4A (deposition etc of reluctant witness) and 4B (prosecutor’s notice to other party: right to object to written evidence being read at trial without further evidence) substitute—

**“Documents served on the designated officer**

- 4A.**—(1) Unless the court otherwise directs, the designated officer may—
- (a) keep a document served in connection with an information, complaint or application; or
  - (b) arrange for the whole or any part to be kept by the informant, complainant, applicant or some other appropriate person, subject to any conditions that the court may impose.
- (2) A person who under such arrangements keeps such a document must provide it for the court if and when the designated officer so requires.”
- (6) In rule 39 (method of making periodical payments), in paragraph (1) for “clerk of the court” substitute “designated officer for the court”.
- (7) In rule 66 (register of convictions, etc), omit paragraph (12).
- (8) For rules 66A (registration of endorsement of licence under section 34 of the Transport Act 1982) and 66B (registration of certificate issued under section 36 of the Transport Act 1982) substitute—

**“The open justice principle**

- 66A.**—(1) Where rules 66B, 66C, 66D and 66E apply, the designated officer and the court must have regard to the importance of—
- (a) dealing with cases in public;
  - (b) allowing a public hearing to be reported to the public; and
  - (c) the rights of a person affected by a direction or order made, or warrant issued, by the court to understand why that decision was made.
- (2) In rules 66D and 66E this requirement is called ‘the open justice principle’.

**Request for information about a case**

- 66B.**—(1) This rule applies where anyone, including a member of the public or a reporter, requests information about a case.
- (2) A person requesting information must—
- (a) ask the designated officer;
  - (b) specify the information requested; and
  - (c) pay any fee prescribed.
- (3) The request—
- (a) may be made orally or in writing, and need not explain why the information is requested, if this rule requires the designated officer to supply that information; but

- (b) must be in writing, unless the court otherwise permits, and must explain why the information is requested, if this rule does not so require.
- (4) Subject to paragraph (5), the designated officer must supply to the person making the request—
- (a) the date of a hearing in public;
  - (b) in general terms, the subject of the proceedings;
  - (c) the court’s decision at a hearing in public;
  - (d) whether the case is under appeal;
  - (e) the identity of—
    - (i) the parties,
    - (ii) the parties’ representatives, including their addresses, and
    - (iii) the judge, magistrate or magistrates, or justices’ legal adviser by whom a decision at a hearing in public was made;
  - (f) such other information about the case as is required by arrangements to which paragraph (6)(c) refers; and
  - (g) details of any reporting or access restriction ordered by the court.
- (5) The designated officer must not supply the information requested if—
- (a) the supply of that information is prohibited by a reporting restriction;
  - (b) that information is the date of a hearing in public of which a party has yet to be notified;
  - (c) that information concerns proceedings determined by the court without notice to—
    - (i) a party to those proceedings, or
    - (ii) a person affected by those proceedings; or
  - (d) that information is not readily available to the designated officer (for example, because of the location or conditions of its storage).
- (6) Where the designated officer must supply the information requested the supply may be—
- (a) by word of mouth;
  - (b) in writing, including by written certificate or extract from a court record; or
  - (c) by such other arrangements as the Lord Chancellor directs, including supply by electronic means.
- (7) Where this rule does not require the designated officer to supply the information requested then unless that information can be supplied under rule 66C—
- (a) the designated officer must refer the request to the court; and
  - (b) rule 66D applies.

**Request for information by a party or person directly affected by a case**

**66C.**—(1) This rule applies where a party, or a person directly affected by a direction or order made or a warrant issued by the court, wants information about their case.

- (2) Such a party or person must—
- (a) ask the designated officer;
  - (b) specify the information requested; and
  - (c) pay any fee prescribed.
- (3) The request—
- (a) may be made orally or in writing, and need not explain why the information is requested, if this rule requires the designated officer to supply that information; but

- (b) must be in writing, unless the court otherwise permits, and must explain why the information is requested, if this rule does not so require.
- (4) Subject to paragraph (5), the designated officer must supply to the party or person making the request—
- (a) information about the terms of any direction or order made, or warrant issued, which was—
    - (i) served on, or addressed or directed to, that party or person, or
    - (ii) made on an application by that party or person; and
  - (b) information received from that party or person (which might be, for example, to establish what information the court holds, or in case of a loss of that information by the party or person making the request).
- (5) The designated officer must not supply the information requested if that information—
- (a) concerns the grounds on which a direction or order was made, or a warrant issued, in the absence of the party or person making the request; or
  - (b) is not readily available to the designated officer (for example, because of the location or conditions of its storage).
- (6) Where the designated officer must supply the information requested the supply may be, at the choice of the party or person making the request—
- (a) by word of mouth;
  - (b) in writing, including by written certificate or extract from a court record; or
  - (c) by a copy of a document served by, or on, that party or person (but not of a document not so served).
- (7) Where this rule does not require the designated officer to supply the information requested—
- (a) the designated officer must refer the request to the court; and
  - (b) rule 66D applies.

**Request for information determined by the court**

**66D.**—(1) This rule applies where the designated officer refers to the court a request for information under rule 66B (request for information about a case) or rule 66C (request for information by a party or person directly affected by a case).

- (2) The designated officer must—
- (a) serve the request on—
    - (i) the applicant for any direction, order or warrant that the request concerns which was made or issued in the absence of the party or person making the request, and
    - (ii) anyone else, and to such extent, as the court directs; and
  - (b) notify the party or person making the request of—
    - (i) the date of its service under this rule, and
    - (ii) the identity of each person served with it, if the court so directs.
- (3) If a party or person served with the request objects to the supply of information requested the objector must—
- (a) give notice of the objection not more than 20 business days after service of the request, or within any longer period allowed by the court;
  - (b) serve that notice on the designated officer and on the party or person making the request; and
  - (c) if the objector wants a hearing, explain why one is needed.

- (4) A notice of objection must explain—
- (a) whether the objection is to the supply of the whole of the information requested, or only to the supply of a specified part or specified parts;
  - (b) whether the objection applies without limit of time, or only for a specified period (for example, until a date or event specified by the objector); and
  - (c) the grounds of the objection.
- (5) Where a notice of objection includes material that the objector thinks ought not be revealed to the party or person making the request, the objector must—
- (a) omit that material from the notice served on that party or person;
  - (b) mark the material to show that it is only for the court; and
  - (c) with that material include an explanation of why it has been withheld.
- (6) The court must not determine the request, and information requested must not be supplied, until—
- (a) each party or person served with the request has had at least 20 business days, or any longer period allowed by the court, in which to object or make other representations; and
  - (b) the court is satisfied that in all the circumstances every such party or person has had a reasonable opportunity to do so.
- (7) The court may determine the request—
- (a) without a hearing; or
  - (b) at a hearing, which—
    - (i) may be in public or private, but
    - (ii) must be in private, unless the court otherwise directs, where the request concerns a direction, order or warrant made or issued in the absence of the party or person making the request.
- (8) Where a notice of objection includes material that the objector thinks ought not be revealed to the party or person making the request—
- (a) any hearing of the request may take place, wholly or in part, in the absence of the party or person making it; and
  - (b) at any such hearing the general rule is that the court must consider, in the following sequence—
    - (i) representations first by the party or person making the request and then by the objector, in the presence of both, and then
    - (ii) further representations by the objector, in the absence of the party or person making the requestbut the court may direct other arrangements for the hearing.
- (9) In deciding whether to order the supply of the information requested the court must have regard to—
- (a) the open justice principle;
  - (b) any reporting restriction;
  - (c) rights and obligations under other legislation;
  - (d) the importance of any public interest in the withholding of that information, or in its supply only in part or subject to conditions (which public interest might be, for example, in preventing injustice, protecting others' rights, protecting the confidentiality of a criminal investigation or protecting national security); and
  - (e) the extent to which that information is otherwise available to the party or person making the request.

(10) Where the court orders the supply of the information requested the supply may be, at the court's direction—

- (a) by word of mouth;
- (b) in writing, including by written certificate or extract from a court record; or
- (c) by a copy of a document.

### **Publication of information about court hearings**

**66E.**—(1) Where a case is due to be heard in public, the designated officer must—

- (a) publish the information listed in paragraph (2)—
  - (i) if that information is available to the designated officer, and
  - (ii) unless the publication of that information is prohibited by a reporting restriction; and
- (b) publish that information for no longer than 5 business days—
  - (i) by notice displayed somewhere prominent in the vicinity of a court room in which the hearing is due to take place, and
  - (ii) by such arrangements as the Lord Chancellor directs, including arrangements for publication by electronic means, but only to the extent needed to comply with the open justice principle.

(2) The information that paragraph (1) requires the designated officer to publish is—

- (a) the date, time and place of the hearing;
- (b) the identity of the parties; and
- (c) such other information as it may be practicable to publish concerning—
  - (i) the type of hearing,
  - (ii) the identity of the court,
  - (iii) in general terms, the subject of the proceedings, and
  - (iv) whether any reporting or access restriction applies.”

(9) In rule 67 (proof of service, handwriting, etc), in paragraph (1) for “clerk of a magistrates’ court” substitute “justices’ legal adviser or court officer nominated for the purpose by such a legal adviser”.

(10) In rule 78 (preparation and submission of final case), in paragraph (2) for “their clerk” substitute “a justices’ legal adviser”.

(11) In rule 79 (extension of time limits), in paragraph (2) for “the clerk of the magistrates’ court” substitute “a justices’ legal adviser”.

(12) Omit—

- (a) rules 5 to 13A inclusive;
- (b) rule 15;
- (c) rules 17 to 20 inclusive;
- (d) rules 22 to 32 inclusive;
- (e) rule 48(1);
- (f) rules 51 to 52A inclusive;
- (g) rules 56 to 57A inclusive;
- (h) rule 63;
- (i) rule 65;
- (j) rules 70 to 73 inclusive;
- (k) rule 74(3)(a), (5), (6) and (7);

- (l) rules 84 to 90A inclusive;
- (m) rules 91 to 94 inclusive;
- (n) rules 100 to 101B inclusive;
- (o) rules 104 to 104C inclusive;
- (p) rule 108; and
- (q) rules 110 to 112 inclusive.

**Amendments to the Magistrates’ Courts (Freezing and Forfeiture of Terrorist Money in Bank and Building Society Accounts) Rules 2017**

3. In the Magistrates’ Courts (Freezing and Forfeiture of Terrorist Money in Bank and Building Society Accounts) Rules 2017(a) in rule 3(7), for “bank or building society” substitute “financial institution”.

**Amendments to the Magistrates’ Courts (Freezing and Forfeiture of Money in Bank and Building Society Accounts) Rules 2017**

4. In the Magistrates’ Courts (Freezing and Forfeiture of Money in Bank and Building Society Accounts) Rules 2017(b)—

- (a) in rule 3(7), for “bank or building society” substitute “financial institution”; and
- (b) in rule 8(2), for “bank or building society” substitute “relevant financial institution”.

**Amendments to the Magistrates’ Courts (Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005, Part 5B) Rules 2019**

5. In the Magistrates’ Courts (Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005, Part 5B) Rules 2019(c)—

- (a) in rule 3(7), for “bank or building society” substitute “financial institution”; and
- (b) in rule 7(2), for “bank or building society” substitute “relevant financial institution”.

*Burnett of Maldon, C.J*  
Lord Chief Justice

I agree.  
Signed by authority of the Lord Chancellor

*David Wolfson*  
Parliamentary Under Secretary of State  
Ministry of Justice

24th May 2021

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(a) S.I. 2017/1290.  
(b) S.I. 2017/1297.  
(c) S.I. 2019/1369.

## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the Magistrates' Courts Rules 1981 (the 1981 Rules) to include:

- (a) a material new definition;
- (b) a new rule about live link directions;
- (c) a new rule about custody of documents submitted to the court; and
- (d) new rules about supplying information and documents from court records.

In addition, these Rules:

- (a) amend the 1981 Rules to omit superseded references to justices' clerks and to omit rules superseded by Criminal Procedure Rules; and
- (b) consequent on amendments to the Anti-terrorism, Crime and Security Act 2001 (c. 24) and the Proceeds of Crime Act 2002 (c. 29) made by Schedule 12 to the Financial Services Act 2021 (c. 22), amend (i) the Magistrates' Courts (Freezing and Forfeiture of Terrorist Money in Bank and Building Society Accounts) Rules 2017, (ii) the Magistrates' Courts (Freezing and Forfeiture of Money in Bank and Building Society Accounts) Rules 2017 and (iii) the Magistrates' Courts (Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005, Part 5B) Rules 2019 to substitute for superseded references to banks and building societies references instead to relevant financial institutions.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

These Rules come into force on 28th June 2021.

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