



JUDICIARY OF
ENGLAND AND WALES

ESSENTIAL CASE MANAGEMENT: APPLYING THE CRIMINAL PROCEDURE RULES

A) Generally

- Compliance with the Criminal Procedure Rules is compulsory.
- The court **must** further the Overriding Objective of the Rules by **actively managing each case** [Crim PR 3.2(1)].
- The parties (including the defendant) must **actively assist the court** in this without being asked and should communicate with each other throughout the life of the case to ensure hearings needed are effective [Crim PR 3.3(1)(a)].
- Unnecessary hearings should be avoided and the court should deal with as many aspects of the case as possible on the same occasion [Crim PR 3.2(2)(f)].
- Service of documents, exchange of information and completion of forms should be made by electronic arrangements where possible. [Crim PR 4.2(2), 5.1(2)(a)].

B) The first hearing: taking plea

At every hearing (however early):

- Unless it has been done already, the court **must** take the defendant's plea [Crim PR 3.9(2)(b)]. This obligation does **not** depend on the extent of the initial details of the prosecution case, service of evidence, disclosure of unused material, or the grant of legal aid.
- If a plea is not taken (the exceptional reason for not doing so must be recorded), or if the alleged offence is indictable only, the court **must** find out what the plea is likely to be [Crim PR 3.9(2)(b)] and the anticipated issues.

C) If the case is to be sent to the Crown Court

- The court **must** be robust in its case management by completing the case management questionnaire in as much detail as possible to assist the Crown Court with the identification of the likely plea and issues. Particular attention should be paid to the support required by the defendant such as interpreters.
- Where a guilty plea is entered or indicated the relevant sentencing guidelines should be followed to decide if a pre-sentence report should be ordered.

D) If the plea is guilty

- The court should pass sentence on the same day, if at all possible [Crim PR 24.11(9)].
- If information about the defendant is needed from the National Probation Service, a report prepared for earlier proceedings may well be sufficient or a 'fast delivery' report (oral or written) may be prepared that day.
- If a 'Newton' hearing is requested, the court, with the active assistance of the parties, **must** identify the disputed issue [Crim PR 3.2(2)(a); 3.3(a)] and if possible, determine it there and then or, if it really cannot be decided, give directions specifically relating to that disputed issues so that the next hearing is the last.

E) If the plea is 'not guilty'

- The key to effective case management is the **early identification by the court of the relevant disputed issues** [Crim PR 3.3(2)(a)]. From the start, the parties **must** identify those issues and tell the court what they are [Crim PR 3.3(a)]. If the parties do not tell the court, the court **must** require them to do so.

The relevant disputed issues **must** be explicitly identified and the case must be managed by the court so that 'live' evidence at trial is confined to those issues.

The parties **must** complete the prescribed Preparation for Effective Trial form [*Criminal Practice Direction I Part 3A, para 13*]¹. The court **must** rigorously consider each entry on the form in order to comply with its duty to actively manage the case.

- Only those witnesses who are really needed in relation to genuinely disputed and relevant issues should be required to attend. As far as possible uncontested evidence should be agreed at trial fixing in the form of section 10 admissions. The court **must** take responsibility for this and not simply leave it to the parties [*Crim PR 3.9(3)*], in order to comply with the Overriding Objective of the Rules [*Crim PR 1.1(2)(d),(e)*].

The court should require the parties to provide:

- A timed, 'batting order' of live witnesses [*Crim PR 3.11(c)(i), (ii)*].
- Details of any admissions/written evidence/ other material to be adduced [*Crim PR 3.11(c)(vi), (vii)*].
- Warning of any point of law [*Crim PR 3.11(c)(viii)*].
- The court **must** require the parties to consider whether to apply for special measures or a live link direction for any witness, and should where possible consider the application forthwith.
- Where possible hearsay and bad character applications should be determined at trial fixing.
- The court may require a timetable for the whole case [*Crim PR 3.11(b)*].
- The time estimate, which will be used for managing the trial, should be made by considering, individually, how long each live witness will take, having regard to the relevant disputed issue(s), other evidence to be adduced, opening/closing submissions, and time for decision-making and recording reasons.
- The court must make it clear to the parties what is expected of them to ensure that the trial is able to commence on the due date and at the due time.

F) The parties' obligations to prepare for trial include:

- Complying with directions given by the court and getting witnesses to court [*Crim PR 3.10(2)(a) & (b)*].
- Making arrangements for the efficient presentation of written evidence and any other material, including multimedia. [*Crim PR 3.10(2)(c)*].
- Promptly warning the court and other parties of any significant problems [*Crim PR 3.10(2)(d)*].
- Making any application to vacate promptly with the required information [*Criminal Practice Direction 24C.30*].

G) At trial

- Before the trial begins, the legal adviser **must** summarise for the court the agreed and disputed issues and the timetable, as identified in the Preparation for Effective Trial form [*Criminal Practice Direction 24.11, Crim PR 24.15(2)*].
- Consistent with the overriding objective the court **must**, with the assistance of the parties, seek to ensure the trial proceeds and is managed within the timetable set. At the beginning of the case the parties and court should identify and address any unavoidable departure from the timetable.
- During the trial the court **must** ensure that the live evidence, questions, and submissions are strictly directed to the relevant disputed issues. The court should normally limit the time of examination to that settled at trial fixing.
- Where a party seeks to raise an issue not identified in advance, the court **must** ensure that another party is not disadvantaged. This may include refusing to admit evidence², curtailing cross-examination, allowing hearsay evidence to be given to address a missing element, and where necessary allowing an adjournment and an order for inter partes or wasted costs.

The Rules

For a full version of the rules and practice direction, see: <http://www.justice.gov.uk/courts/procedure-rules/criminal/rulesmenu>

Lady Justice Macur
Senior Presiding Judge for England and Wales
October 2019

¹See e.g. *R v Valiati* [2018] EWHC 2908 (Admin)

² See e.g. *Writtle v DPP* [(2009) 173 JP 224, [2009] EWHC 236