

Criminal Practice Directions 2023

These are the new Criminal Practice Directions 2023. The 2015 Criminal Practice Directions as amended are revoked but for the following parts:

- a. CPD I 3Q Failure to comply with requirement to give name, date of birth and nationality
- b. CPD I 5C Issue of medical certificates
- c. CPD II 7A First court attendance after charge and detention,
- d. CPD III 14C.11 failure to surrender to bail: consequences and penalties
- e. CPD VI 24A Role of the justices' clerk/legal advisor
- f. CPD VII J Bind over orders and conditional discharges
- g. CPD XI 48A Contempt in the face of the magistrates' court

General Changes

The following changes have been made throughout the entirety of the practice directions:

- a. The removal or truncation of:
 - i. Repetitious paragraphs
 - ii. Descriptive paragraphs that do not offer guidance about the law or procedure
 - iii. Paragraphs that merely state the law as set out in case law, legislation including the criminal procedural rules
 - iv. Paragraphs that refer to information contained in other guidance
 - v. Paragraphs that provided guidance on matters that are, or should be, straightforward, or otherwise go into too much detail.
 - vi. Paragraphs containing old law or out of date references
- b. Moving the majority of references to cases and primary legislation to footnotes
- c. Adopting gender neutral language
- d. Updating to reflect new case law and legislation

Summary of Chapter Contents

Chapter 1: General Matters

- 1) This Practice Direction replaces part 1A.3 and 5A of the Criminal Practice Directions 2015. It revokes the 2015 Criminal Practice Directions as amended, subject to those parts of the existing practice directions which will remain in force until replaced by new procedural rules. It states that the CPR and the CPDs are the law and they provide a code of practice that is binding on the courts to which they are directed. It states that the Lord Chief Justice may issue forms for use with the Criminal Procedure Rules and may amend or withdraw those forms.

Chapter 2: Open Justice

2. This chapter replaces parts CPD I General Matters: 5B, 6A, 6D and 6E of the Criminal Practice Directions 2015. It provides guidance on the application of the open justice principle in issues such as access to court hearings, taking notes in court, and access to material held by the court.

Chapter 3: Security at Court

3. This chapter replaces parts I 3L and 3M of the Criminal Practice Directions 2015. It outlines the process for managing the security of high-risk defendants at court, and sets out the security measures a court should consider. It also contains the procedure for applications for armed police presence in the Royal Courts of Justice, Crown Courts and Magistrates' Court Buildings.

Chapter 4: Custody and Bail

4. This Chapter replaces parts III 14C, 14F, 14G of the Criminal Practice Directions 2015. It provides directions on forfeiture of monies lodged as security, or pledged by a surety, and the consequences and penalties of failing to surrender to bail.

Chapter 5: Trial (includes listing)

5. This chapter replaces parts I 3A, I 8A and XIII Listing of the 2015 Criminal Practice Directions 2015. It provides directions on trial management, including the procedure to be followed in advance of a Plea and Case Management Hearing, further case management and compliance hearings and conduct of case progression hearings. There are also directions on the use of video and audio links, key principles and approach to the judicial function of listing and the deployment of the judiciary.
6. It no longer includes directions on modes of address and titles of judges and magistrates.

Chapter 6: Vulnerable People and Witness Evidence

7. This chapter replaces parts I 3D, 3E, 3G, V 18D, 18E, 23A, VI 26P of the Criminal Practice Directions 2015. It continues to provide direction on the management of special measures applications, and for the appropriate questioning of vulnerable witnesses.

Chapter 7: Expert Evidence

8. This chapter replaces parts V 19A, 19B and 19C of the Criminal Practice Directions 2015. It sets out the criteria for when expert opinion evidence is admissible in criminal proceedings. This includes the factors a court may take into account in determining the reliability of the expert opinion, and examples of matters that must be disclosed, for example conflict of interest or adverse judicial comment.

Chapter 8: Jurors

9. This chapter replaces part VI 26 of the existing Criminal Practice Directions 2015. It explains the court's power to excuse a potential juror, stand them down or discharge a juror during trial to ensure fairness. Direction is also provided on giving early directions, providing written routes to verdict and the provision of other written materials as well as directions for a majority verdict.
10. This chapter also covers the procedure a judge should follow when confronted with juror irregularities, including Contempt in the face of the court, offences by jurors and non-jurors under the Juries Act 1974.

Chapter 9: Sentencing

11. This chapter replaces part VII of the Criminal Practice Directions 2015. It covers pleas of guilty in the Crown Court, including where the prosecution is minded to accept pleas to lesser or alternative counts, and where a guilty plea is offered on a limited basis. Guidance is also provided on the procedure in cases involving serious or complex fraud, basis of guilty pleas, and victim personal statements.

Chapter 10: Appeals

12. This section is a replacement for parts of the Criminal Practice Directions 2015 pertaining to appeals and is based on information found in parts IX 39C-H and XII General application part C-F of the 2015 practice directions.
13. Direction is provided on the process for appeals to the Court of Appeal (Criminal Division), including the provision of notice to the prosecution, the grounds of appeal and the contents and layout of skeleton arguments. Other topics include the correct citation of authorities and Hansard, and guidance on the availability of reserved judgements before they are handed down.

Chapter 11: Investigative Orders

- 11 This chapter replaces parts XI 47A and 47B of the Criminal Practice Directions 2015. The chapter continues to remind applicants of their duties of candour and truthfulness to the court, and that on any application made without notice, the duty of frank and complete disclosure is especially onerous. Direction is also provided on when it may not be appropriate to determine an application for an investigation order without a hearing.

Chapter 12: Extradition

- 12 This chapter replaces part XI 50 of the Criminal Practice Directions 2015. These directions continue to ensure that extradition proceedings are dealt with expeditiously, and contain essential guidance on the management of applications for permission to appeal to the High Court, amongst other issues.

Chapter 13: Terrorism

- 13 This chapter replaces the existing Annex 4 Case management of terrorism cases in the Criminal Practice Directions 2015. It provides direction on the management of terrorism cases, including the listing of such cases and the procedure to follow after charge.

Chapter 14: Welsh Language in Court

- 14 This chapter replaces parts I 3H, 3J, 3K of the Criminal Practice Directions 2015. It retains the position that where a defendant in a court in England asks to give or call evidence in Welsh, the case should not be transferred to Wales without consultation with the presiding judge. It requires that the advocates inform the court when Welsh may be used by a witness, party or any document. Contact details of the Welsh language unit and Welsh Liaison Judge have been added and updated.