

# THE MAGISTRATES ASSOCIATION

## JUDICIAL POLICY & PRACTICE COMMITTEE

### Response to Proposal to revise and simplify the rules about commencing proceedings in a magistrates' court

#### General

**Q1 Is it desirable that the Part 7 rules should correspond to the extent suggested with the Part 14 rules about indictments?**

A Anything which simplifies procedure and makes it easier for the general public to understand what is happening in court, provided that it does not compromise justice, seems good sense. The same rules should also apply to different tiers of the system whenever possible.

**Q2 Are the suggested requirements for the formulation of a charge consistent with the current practice?**

A Yes.

**Q3 If so, is that desirable?**

It seems sensible to have a common process.

**Q4 Should Parts 7 & 14 each contain the same formulation of the rule against duplicity?**

Yes

**Q5 Are the powers conferred on the court by Part 3 of the Criminal Procedure Rules adequate as substitutes for current rule 7.3?**

We do not consider Rule 7.3. is superfluous as it sets out clearly and unambiguously how magistrates should respond in certain circumstances. Part 3 deals with the principle and processes of case management and does not, for instance, refer to time limits or the need for written information.

**Q6 Is it helpful for the proposed rules to refer explicitly to prescribed forms of information?**

Yes

**Q7 Should the Part 7 rules use the expressions 'present an information' and 'serve a written information' in place of 'lay an information'.**

A Yes. 'Serve' and 'present' are more clearly understood and will more readily communicate what is being done.

**Q8 Should the word 'information' still be used at all?**

A 'Information' is clear and still a word used generally.

**Q9 Is it helpful to duplicate as suggested the time limit for which section 127 of the Magistrates Courts Act 1980 provides?**

A Yes – although care needs to be taken to ensure that information is served or the complaint made as soon as possible after the event to which it gives rise has occurred. The six-month time limit should not be used as an excuse for delaying service – and would hardly be in the spirit of CJSSS.

**Q10 Is it helpful to duplicate as suggested the provision for issuing a replacement summons for which section 47 of the Magistrates Courts Act 1980 provides?**

A Yes – see above.

**Q11 Would it be helpful to include Part 2 of the Criminal Procedure Rules the suggested general rule about representatives?**

A The existing rule is quite clear. There does not seem any good reason to make the change suggested.

**Q12 Is it helpful to relocate as suggested current ruled 7.4, 7.5, 7.6 and 7.9?**

A No comment

30 May 2008