
STATUTORY INSTRUMENTS

2010 No. 60

The Criminal Procedure Rules 2010

PART 22

DISCLOSURE

Review of public interest ruling

22.6.—(1) This rule applies where the court has ordered that it is not in the public interest to disclose material that the prosecutor otherwise would have to disclose, and—

- (a) the defendant wants the court to review that decision; or
- (b) the Crown Court reviews that decision on its own initiative.

(2) Where the defendant wants the court to review that decision, the defendant must—

- (a) serve an application on—
 - (i) the court officer, and
 - (ii) the prosecutor; and
- (b) in the application—
 - (i) describe the material that the defendant wants the prosecutor to disclose, and
 - (ii) explain why the defendant thinks it is no longer in the public interest for the prosecutor not to disclose it.

(3) The prosecutor must serve any such application on any person who the prosecutor thinks would be directly affected if that material were disclosed.

(4) The prosecutor, and any such person, must serve any representations on—

- (a) the court officer; and
- (b) the defendant, unless to do so would in effect reveal something that either thinks ought not be disclosed.

(5) The court may direct—

- (a) the prosecutor to serve any such application on any person who the court considers would be directly affected if that material were disclosed;
- (b) the prosecutor and any such person to serve any representations on the defendant.

(6) The court must review a decision to which this rule applies at a hearing which—

- (a) will 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 will receive, in the following sequence—
 - (i) representations first by the defendant, and then by the prosecutor and any other person served with the application, 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 conclude a review 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.

[Note. The court's power to review a public interest ruling is provided for by sections 14 and 15 of the Criminal Procedure and Investigations Act 1996(1). Under section 14 of the Act, a magistrates' court may reconsider an order for non-disclosure only if a defendant applies. Under section 15, the Crown Court may do so on an application, or on its own initiative.

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

(1) 1996 c. 25; section 14 was amended by section 331 of, and paragraphs 20 and 30 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44) and section 15 was amended by section 331 of, and paragraphs 20 and 31 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).