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STATUTORY INSTRUMENTS

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**2013 No. 1554**

**The Criminal Procedure Rules 2013**

**PART 3**

**CASE MANAGEMENT**

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**The scope of this Part**

**3.1.** This Part applies to the management of each case in a magistrates' court and in the Crown Court (including an appeal to the Crown Court) until the conclusion of that case.

*[Note. Rules that apply to procedure in the Court of Appeal are in Parts 65 to 73 of these Rules.]*

**The duty of the court**

**3.2.—**(1) The court must further the overriding objective by actively managing the case.

(2) Active case management includes—

- (a) the early identification of the real issues;
- (b) the early identification of the needs of witnesses;
- (c) achieving certainty as to what must be done, by whom, and when, in particular by the early setting of a timetable for the progress of the case;
- (d) monitoring the progress of the case and compliance with directions;

- (e) ensuring that evidence, whether disputed or not, is presented in the shortest and clearest way;
  - (f) discouraging delay, dealing with as many aspects of the case as possible on the same occasion, and avoiding unnecessary hearings;
  - (g) encouraging the participants to co-operate in the progression of the case; and
  - (h) making use of technology.
- (3) The court must actively manage the case by giving any direction appropriate to the needs of that case as early as possible.

### **The duty of the parties**

#### **3.3.** Each party must—

- (a) actively assist the court in fulfilling its duty under rule 3.2, without or if necessary with a direction; and
- (b) apply for a direction if needed to further the overriding objective.

### **Case progression officers and their duties**

#### **3.4.—**(1) At the beginning of the case each party must, unless the court otherwise directs—

- (a) nominate an individual responsible for progressing that case; and
- (b) tell other parties and the court who he is and how to contact him.

#### (2) In fulfilling its duty under rule 3.2, the court must where appropriate—

- (a) nominate a court officer responsible for progressing the case; and
- (b) make sure the parties know who he is and how to contact him.

#### (3) In this Part a person nominated under this rule is called a case progression officer.

#### (4) A case progression officer must—

- (a) monitor compliance with directions;
- (b) make sure that the court is kept informed of events that may affect the progress of that case;
- (c) make sure that he can be contacted promptly about the case during ordinary business hours;
- (d) act promptly and reasonably in response to communications about the case; and
- (e) if he will be unavailable, appoint a substitute to fulfil his duties and inform the other case progression officers.

### **The court's case management powers**

**3.5.—**(1) In fulfilling its duty under rule 3.2 the court may give any direction and take any step actively to manage a case unless that direction or step would be inconsistent with legislation, including these Rules.

#### (2) In particular, the court may—

- (a) nominate a judge, magistrate or justices' legal adviser to manage the case;
- (b) give a direction on its own initiative or on application by a party;
- (c) ask or allow a party to propose a direction;
- (d) for the purpose of giving directions, receive applications and representations by letter, by telephone or by any other means of electronic communication, and conduct a hearing by such means;

- (e) give a direction—
  - (i) at a hearing, in public or in private, or
  - (ii) without a hearing;
- (f) fix, postpone, bring forward, extend, cancel or adjourn a hearing;
- (g) shorten or extend (even after it has expired) a time limit fixed by a direction;
- (h) require that issues in the case should be—
  - (i) identified in writing,
  - (ii) determined separately, and decide in what order they will be determined; and
- (i) specify the consequences of failing to comply with a direction.

(3) A magistrates' court may give a direction that will apply in the Crown Court if the case is to continue there.

(4) The Crown Court may give a direction that will apply in a magistrates' court if the case is to continue there.

(5) Any power to give a direction under this Part includes a power to vary or revoke that direction.

(6) If a party fails to comply with a rule or a direction, the court may—

- (a) fix, postpone, bring forward, extend, cancel or adjourn a hearing;
- (b) exercise its powers to make a costs order; and
- (c) impose such other sanction as may be appropriate.

*[Note. Depending upon the nature of a case and the stage that it has reached, its progress may be affected by other Criminal Procedure Rules and by other legislation. The note at the end of this Part lists other rules and legislation that may apply.]*

See also rule 3.10.

*The court may make a costs order under—*

- (a) *section 19 of the Prosecution of Offences Act 1985(1), where the court decides that one party to criminal proceedings has incurred costs as a result of an unnecessary or improper act or omission by, or on behalf of, another party;*
- (b) *section 19A of that Act(2), where the court decides that a party has incurred costs as a result of an improper, unreasonable or negligent act or omission on the part of a legal representative;*
- (c) *section 19B of that Act(3), where the court decides that there has been serious misconduct by a person who is not a party.*

*Under some other legislation, including Parts 33, 34 and 35 of these Rules, if a party fails to comply with a rule or a direction then in some circumstances—*

- (a) *the court may refuse to allow that party to introduce evidence;*
- (b) *evidence that that party wants to introduce may not be admissible;*

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(1) 1985 c. 23; section 19 was amended by section 166 of the Criminal Justice Act 1988 (c. 33), section 45 of, and Schedule 6 to, the Legal Aid Act 1988 (c. 34), section 7 of, and paragraph 8 of Schedule 3 to, the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25), section 24 of, and paragraphs 27 and 28 of Schedule 4 to, the Access to Justice Act 1999 (c. 22), sections 40 and 67 of, and paragraph 4 of Schedule 7 to, the Youth Justice and Criminal Evidence Act 1999 (c. 23), section 165 of, and paragraph 99 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 378 of, and paragraph 107 of Schedule 16 to, the Armed Forces Act 2006 (c. 52), section 6 of, and paragraph 32 of Schedule 4 and paragraphs 1 and 5 of Schedule 27 to, the Criminal Justice and Immigration Act 2008 (c. 4) and paragraphs 22 and 23 of Schedule 5, and paragraphs 1 and 5 and Part 4 of Schedule 7, to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(2) 1985 c. 23; section 19A was inserted by section 111 of the Courts and Legal Services Act 1990 (c. 41).

(3) 1985 c. 23; section 19B was inserted by section 93 of the Courts Act 2003 (c. 39).

(c) *the court may draw adverse inferences from the late introduction of an issue or evidence.*

See also—

- (a) *section 81(1) of the Police and Criminal Evidence Act 1984(4) and section 20(3) of the Criminal Procedure and Investigations Act 1996(5) (advance disclosure of expert evidence);*
- (b) *section 11(5) of the Criminal Procedure and Investigations Act 1996(6) (faults in disclosure by accused);*
- (c) *section 132(5) of the Criminal Justice Act 2003(7) (failure to give notice of hearsay evidence).]*

### **Application to vary a direction**

**3.6.**—(1) A party may apply to vary a direction if—

- (a) the court gave it without a hearing;
- (b) the court gave it at a hearing in his absence; or
- (c) circumstances have changed.

(2) A party who applies to vary a direction must—

- (a) apply as soon as practicable after he becomes aware of the grounds for doing so; and
- (b) give as much notice to the other parties as the nature and urgency of his application permits.

### **Agreement to vary a time limit fixed by a direction**

**3.7.**—(1) The parties may agree to vary a time limit fixed by a direction, but only if—

- (a) the variation will not—
  - (i) affect the date of any hearing that has been fixed, or
  - (ii) significantly affect the progress of the case in any other way;
- (b) the court has not prohibited variation by agreement; and
- (c) the court’s case progression officer is promptly informed.

(2) The court’s case progression officer must refer the agreement to the court if he doubts the condition in paragraph (1)(a) is satisfied.

### **Case preparation and progression**

**3.8.**—(1) At every hearing, if a case cannot be concluded there and then the court must give directions so that it can be concluded at the next hearing or as soon as possible after that.

(2) At every hearing the court must, where relevant—

- (a) if the defendant is absent, decide whether to proceed nonetheless;
- (b) take the defendant’s plea (unless already done) or if no plea can be taken then find out whether the defendant is likely to plead guilty or not guilty;
- (c) set, follow or revise a timetable for the progress of the case, which may include a timetable for any hearing including the trial or (in the Crown Court) the appeal;

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(4) 1984 c. 60; section 81(1) was amended by section 109(1) of, and paragraph 286 of Schedule 8 to, the Courts Act 2003 (c.39).

(5) 1996 c. 25; section 20(3) was amended by section 109(1) of, and paragraph 378 of Schedule 8 to, the Courts Act 2003 (c.39).

(6) 1996 c. 25; section 11 was substituted by section 39 of the Criminal Justice Act 2003 (c. 44) and amended by section 60 of the Criminal Justice and Immigration Act 2008 (c. 4).

(7) 2003 c. 44.

- (d) in giving directions, ensure continuity in relation to the court and to the parties' representatives where that is appropriate and practicable; and
  - (e) where a direction has not been complied with, find out why, identify who was responsible, and take appropriate action.
- (3) In order to prepare for a trial in the Crown Court—
- (a) the court must conduct a plea and case management hearing unless the circumstances make that unnecessary;
  - (b) the defendant must notify the court officer of the identity of the intended defence trial advocate—
    - (i) as soon as practicable, and in any event no later than the day of the plea and case management hearing (if there is one),
    - (ii) in writing, or orally at the plea and case management hearing (if there is one);
  - (c) the defendant must notify the court officer in writing of any change in the identity of the intended defence trial advocate as soon as practicable, and in any event not more than 5 business days after that change.
- (4) In order to prepare for the trial, the court must take every reasonable step—
- (a) to encourage and to facilitate the attendance of witnesses when they are needed; and
  - (b) to facilitate the participation of any person, including the defendant.

### **Readiness for trial or appeal**

**3.9.**—(1) This rule applies to a party's preparation for trial or appeal, and in this rule and rule 3.10 trial includes any hearing at which evidence will be introduced.

- (2) In fulfilling his duty under rule 3.3, each party must—
- (a) comply with directions given by the court;
  - (b) take every reasonable step to make sure his witnesses will attend when they are needed;
  - (c) make appropriate arrangements to present any written or other material; and
  - (d) promptly inform the court and the other parties of anything that may—
    - (i) affect the date or duration of the trial or appeal, or
    - (ii) significantly affect the progress of the case in any other way.
- (3) The court may require a party to give a certificate of readiness.

### **Conduct of a trial or an appeal**

- 3.10.** In order to manage a trial or an appeal, the court—
- (a) must establish, with the active assistance of the parties, what are the disputed issues;
  - (b) must consider setting a timetable that—
    - (i) takes account of those issues and of any timetable proposed by a party, and
    - (ii) may limit the duration of any stage of the hearing;
  - (c) may require a party to identify—
    - (i) which witnesses that party wants to give evidence in person,
    - (ii) the order in which that party wants those witnesses to give their evidence,
    - (iii) whether that party requires an order compelling the attendance of a witness,
    - (iv) what arrangements are desirable to facilitate the giving of evidence by a witness,

- (v) what arrangements are desirable to facilitate the participation of any other person, including the defendant,
  - (vi) what written evidence that party intends to introduce,
  - (vii) what other material, if any, that person intends to make available to the court in the presentation of the case, and
  - (viii) whether that party intends to raise any point of law that could affect the conduct of the trial or appeal; and
- (d) may limit—
- (i) the examination, cross-examination or re-examination of a witness, and
  - (ii) the duration of any stage of the hearing.

*[Note. See also rules 3.5 and 3.8.]*

### **Case management forms and records**

**3.11.**—(1) The case management forms set out in the Practice Direction must be used, and where there is no form then no specific formality is required.

(2) The court must make available to the parties a record of directions given.

(3) Where a person is entitled or required to attend a hearing, the court officer must give as much notice as reasonably practicable to—

- (a) that person; and
- (b) that person’s custodian (if any).

*[Note. Case management may be affected by the following other rules and legislation:*

#### ***Criminal Procedure Rules***

*Rule 27.4: reminder of right to object to written evidence being read at trial*

*Part 9: allocation and sending for trial*

*Part 10: initial details of the prosecution case*

*Part 14: the indictment*

*Part 15: preparatory hearings in the Crown Court*

*Part 22: disclosure*

*Parts 27 – 36: the rules that deal with evidence*

*Part 37: trial and sentence in a magistrates’ court*

*Part 39: trial on indictment*

#### ***Regulations***

*The Prosecution of Offences (Custody Time Limits) Regulations 1987(8)*

*The Crime and Disorder Act 1998 (Service of Prosecution Evidence) Regulations 2005(9)*

*The Criminal Procedure and Investigations Act 1996 (Defence Disclosure Time Limits) Regulations 2011(10)*

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(8) S.I. 1987/299; amended by sections 71 and 80 of, and paragraph 8 of Schedule 5 to, the Criminal Procedure and Investigations Act 1996 (c. 25) and S.I. 1989/767, 1991/1515, 1995/555, 1999/2744, 2000/3284, 2012/1344.

(9) S.I. 2005/902; amended by S.I. 2012/1345.

(10) S.I. 2011/209.

### ***Provisions of Acts of Parliament***

*Sections 10 and 18, Magistrates' Courts Act 1980(11): powers to adjourn hearings*

*Sections 128 and 129, Magistrates' Courts Act 1980(12): remand in custody by magistrates' courts*

*Part 1, Criminal Procedure and Investigations Act 1996(13): disclosure*

*Section 2, Administration of Justice (Miscellaneous Provisions) Act 1933(14): procedural conditions for trial in the Crown Court*

*Sections 51 and 51A, Crime and Disorder Act 1998(15): sending for trial in the Crown Court*

*Section 7, Criminal Justice Act 1987(16); Parts III and IV, Criminal Procedure and Investigations Act 1996: pre-trial and preparatory hearings in the Crown Court*

*Section 8A, Magistrates' Courts Act 1980(17): pre-trial hearings in magistrates' courts*

*Section 9, Criminal Justice Act 1967(18): proof by written witness statement.]*

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- (11) 1980 c. 43; section 10 was amended by section 59 of, and paragraph 1 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48), section 68 of, and paragraph 6 of Schedule 8 to, the Criminal Justice Act 1991 (c. 53) and section 47 of the Crime and Disorder Act 1998 (c. 37). Section 18 was amended by section 59 of, and paragraph 1 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48), section 68 of, and paragraph 6 of Schedule 8 to, the Criminal Justice Act 1991 (c. 53), section 49 of the Criminal Procedure and Investigations Act 1996 (c. 25), and paragraphs 1 and 4 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).
- (12) 1980 c. 43; section 128 was amended by section 59 to, and paragraphs 2, 3 and 4 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48), section 48 of the Police and Criminal Evidence Act 1984 (c. 60), section 170(1) of, and paragraphs 65 and 69 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33), section 125(3) of, and paragraph 25 of Schedule 18 to, the Courts and Legal Services Act 1990 (c. 41), sections 49, 52 and 80 of, and Schedule 5 to, the Criminal Procedure and Investigations Act 1996 (c. 25), paragraph 75 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and paragraph 51 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44). It is modified by section 91(5) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
- (13) 1996 c. 25.
- (14) 1933 c. 36; section 2 was amended by Part IV of Schedule 11 to, the Courts Act 1971 (c. 23), Schedule 5 to, the Senior Courts Act 1981 (c. 54), Schedule 2 to the Prosecution of Offences Act 1985 (c. 23), paragraph 1 of Schedule 2 to the Criminal Justice Act 1987 (c. 38), paragraph 10 of Schedule 15 to the Criminal Justice Act 1988 (c. 33), paragraph 8 of Schedule 6 to the Criminal Justice Act 1991 (c. 53), Schedule 1 to the Statute Law (Repeals) Act 1993, paragraph 17 of Schedule 1 to the Criminal Procedure and Investigations Act 1996 (c. 25), paragraph 5 of Schedule 8 to the Crime and Disorder Act 1998 (c. 37), paragraph 1 of the Schedule to S.I. 2004/2035, paragraph 34 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) and sections 116 and 178 of, and Part 3 of Schedule 23 to, the Coroners and Justice Act 2009 (c. 25). It is further amended by paragraph 32 of Schedule 17 to the Crime and Courts Act 2013 (c. 22), with effect from a date to be appointed.
- (15) 1998 c. 37; section 51 was substituted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 59 of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4). Section 51A was inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 49 of, and paragraph 5 of Schedule 1 to, the Violent Crime Reduction Act 2006 (c. 38) and paragraph 6 of Schedule 21 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
- (16) 1987 c. 38; section 7 was amended by section 168(1) of, and paragraph 30 of Schedule 9 to, the Criminal Justice and Public Order Act 1994 (c. 33) and section 80 of, and paragraph 2 of Schedule 3 and Schedule 5 to, the Criminal Procedure and Investigations Act 1996 (c. 25). It has been further amended by sections 45 and 310 of, and paragraphs 52 and 53 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44), for certain purposes, with effect from 24 July 2006, and for remaining purposes from a date to be appointed.
- (17) 1980 c. 43; section 8A was inserted by section 45 of, and Schedule 3 to, the Courts Act 2003 (c. 39) and amended by SI 2006/2493 and paragraphs 12 and 14 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
- (18) 1967 c. 80; section 9 was amended by section 56 of, and paragraph 49 of Schedule 8 to, the Courts Act 1971 (c. 23), section 168 of, and paragraph 6 of Schedule 9 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 69 of the Criminal Procedure and Investigations Act 1996 (c. 25), regulation 9 of, and paragraph 4 of Schedule 5 to, S.I. 2001/1090 and by paragraph 43 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44). It is further amended by section 72 of, and paragraph 55 of Schedule 5 to, the Children and Young Persons Act 1969 (c. 54) and section 65 of, and paragraph 1 of Schedule 4 to, the Courts Act 2003 (c. 39), with effect from dates to be appointed.