
STATUTORY INSTRUMENTS

2016 No. 705

The Criminal Procedure (Amendment No. 2) Rules 2016

Amendments to the Criminal Procedure Rules 2015

5. In Part 9 (Allocation and sending for trial)—

- (a) in rule 9.6 (Prosecutor’s notice requiring Crown Court trial), in paragraph (2) omit ‘written’; and
- (b) for the final paragraph of the note to rule 9.10 (Adult defendant: not guilty plea) substitute—

“The Sentencing Council may issue allocation guidelines under section 122 of the Coroners and Justice Act 2009(1). The definitive allocation guideline which took effect on 1st March, 2016 provides:

(1) In general, either way offences should be tried summarily unless—

- (a) the outcome would clearly be a sentence in excess of the court’s powers for the offence(s) concerned after taking into account personal mitigation and any potential reduction for a guilty plea; or*
- (b) for reasons of unusual legal, procedural or factual complexity, the case should be tried in the Crown Court. This exception may apply in cases where a very substantial fine is the likely sentence. Other circumstances where this exception will apply are likely to be rare and case specific; the court will rely on the submissions of the parties to identify relevant cases.*

(2) In cases with no factual or legal complications the court should bear in mind its power to commit for sentence after a trial and may retain jurisdiction notwithstanding that the likely sentence might exceed its powers.

(3) Cases may be tried summarily even where the defendant is subject to a Crown Court Suspended Sentence Order or Community Order.

(4) All parties should be asked by the court to make representations as to whether the case is suitable for summary trial. The court should refer to definitive guidelines (if any) to assess the likely sentence for the offence in the light of the facts alleged by the prosecution case, taking into account all aspects of the case including those advanced by the defence, including any personal mitigation to which the defence wish to refer.

Where the court decides that the case is suitable to be dealt with in the magistrates’ court, it must warn the defendant that all sentencing options remain open and, if the defendant consents to summary trial and is convicted by the court or pleads guilty, the defendant may be committed to the Crown Court for sentence.”.