
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 5

FORMS AND COURT RECORDS

COURT RECORDS

Duty to make records

5.4.—(1) For each case, as appropriate, the court officer must record, by such means as the Lord Chancellor directs—

- (a) each charge or indictment against the defendant;
- (b) the defendant's plea to each charge or count;
- (c) each acquittal, conviction, sentence, determination, direction or order;
- (d) each decision about bail;
- (e) the power exercised where the court commits or adjourns the case to another court—
 - (i) for sentence, or
 - (ii) for the defendant to be dealt with for breach of a community order, a deferred sentence, a conditional discharge, or a suspended sentence of imprisonment, imposed by that other court;
- (f) the court's reasons for a decision, where legislation requires those reasons to be recorded;
- (g) any appeal;
- (h) each party's presence or absence at each hearing;
- (i) any consent that legislation requires before the court can proceed with the case, or proceed to a decision;
- (j) in a magistrates' court—
 - (i) any indication of sentence given [^{F1}by the court,]
 - (ii) the registration of a fixed penalty notice for enforcement as a fine, and any related endorsement on a driving record;
 - [^{F2}(iii) the power exercised where the court sends the defendant to the Crown Court for trial for an offence, ^{F3}...
 - [any statement made by the court under section 70(5) of the Proceeds of Crime Act ^{F4}(iv) 2002 (statement that if the court were not committing the defendant for consideration of a confiscation order then it would have committed the defendant to the Crown Court for sentence for an offence under section 14, 16 or 16A of the Sentencing Act 2020),

- (v) any opinion given by the court under section 18(4) or 19(3) of the Sentencing Act 2020 (opinion that if the court were not committing the defendant for sentence under section 18 or 19 of the 2020 Act then it could, or would be required to, commit the defendant to the Crown Court for sentence for the offence under one of sections 14, 15, 16, 16A or 17 of that Act), and]

[the exercise of a power to which paragraph (3) applies (judges exercising powers of ^{F5}(vi) District Judges (Magistrates' Courts));]

^{F6}(k) in the Crown Court—

- (i) any request for assistance or other communication about the case received from a juror,
- (ii) the date and time at which the court gives the jury directions about the law under rule 25.14(2) or (3)(a),
- (iii) the date and time at which the court gives the jury other assistance in writing under rule 25.14(5), and
- (iv) the date, time and subject matter of submissions and rulings that relate to such directions and assistance;]
- (l) the identity of—
 - (i) the prosecutor,
 - (ii) the defendant,
 - (iii) any other applicant to whom these Rules apply,
 - (iv) any interpreter or intermediary,
 - (v) the parties' legal representatives, if any, and
 - (vi) the judge, magistrate or magistrates, justices' legal adviser or other person who made each recorded decision;
- (m) where a defendant is entitled to attend a hearing, any agreement by the defendant to waive that right; and
- (n) where interpretation is required for a defendant, any agreement by that defendant to do without the written translation of a document.

(2) Such records must include—

- (a) each party's and representative's address, including any electronic address and telephone number available;
- (b) the defendant's date of birth, if available; and
- (c) the date of each event and decision recorded.

^{F7}(3) Where a judge acting under section 66 of the Courts Act 2003 (Judges having powers of District Judges (Magistrates' Courts)) exercises the power of a magistrates' court, the court officer then assisting that judge must—

- (a) record, by such means as the Lord Chancellor directs, the magistrates' court power exercised by that judge; and
- (b) as soon as practicable arrange the transmission to the magistrates' court of—
 - (i) that record, and
 - (ii) a record of the circumstances in which that power was exercised.]

^{F8}(4) Where a court record appears to the court officer to be incorrect the officer must correct it if—

- (a) the parties agree on the terms of the correction; or
- (b) the court so directs.

(5) Where a court (“the receiving court”), or a party to the proceedings before that court, questions the accuracy of a record of a decision by a court (“the transferring court”) which sent a case for trial, committed, remitted or transferred a case for sentence or other determination, or from which an appeal has been brought to the receiving court—

- (a) the court officer for the transferring court must review that record;
- (b) if that record appears to be correct then the court officer for the transferring court must so inform the receiving court as soon as practicable, explaining that conclusion; and
- (c) if that record appears to be incorrect then the court officer must correct it.]

[Note. For the duty to keep court records, see sections 5 and 8 of the Public Records Act 1958(1).

Requirements to record the court’s reasons for its decision are contained in: section 5 of the Bail Act 1976(2); section 47(1) of the Road Traffic Offenders Act 1988(3); sections 20, 33A and 33BB of the Youth Justice and Criminal Evidence Act 1999(4); section 174 of the Criminal Justice Act 2003(5); and rule 6.8.

The prosecution of some offences requires the consent of a specified authority. Requirements for the defendant’s consent to proceedings in his or her absence are contained in sections 23 and 128 of the Magistrates’ Courts Act 1980(6).

In the circumstances for which it provides, section 20 of the Magistrates’ Courts Act 1980(7) allows the court to give an indication of whether a custodial or non-custodial sentence is more likely in the event of a guilty plea at trial in that court ^{F9}: see also rule 9.11(3). Rules 3.16 and 9.13 provide for sentencing indications in other circumstances in magistrates’ courts.]

Requirements to register fixed penalty notices and to record any related endorsement of a driving record are contained in sections 57, 57A and 71 of the Road Traffic Offenders Act 1988(8).

-
- (1) 1958 c. 51; section 5 was amended by sections 67 and 86 of, and paragraph 2 of Schedule 5 to, the Freedom of Information Act 2000 (c. 36); and section 8 was amended by sections 27 and 35 of, and Schedule 2 to, the Administration of Justice Act 1969 (c. 58), section 1 of, and paragraph 19 of Schedule 2 to, the Administration of Justice Act 1970 (c. 31), section 56 of, and Schedule 11 to, the Courts Act 1971 (c. 23), section 152 of, and Schedule 7 to, the Senior Courts Act 1981 (c. 54) and sections 56 and 59 of, and Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).
 - (2) 1976 c. 63; section 5 was amended by section 65 of, and Schedule 12 to, the Criminal Law Act 1977 (c. 45), section 60 of the Criminal Justice Act 1982 (c. 48), paragraph 1 of Schedule 3 to the Criminal Justice and Public Order Act 1994 (c. 33), paragraph 53 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 129(1) of the Criminal Justice and Police Act 2001 (c. 16), paragraph 182 of Schedule 8 to the Courts Act 2003 (c. 39), paragraph 48 of Schedule 3, paragraphs 1 and 2 of Schedule 36, and Parts 2, 4 and 12 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) and section 208 of, and paragraphs 33 and 35 of Schedule 21 to, the Legal Services Act 2007 (c. 27).
 - (3) 1988 c. 53.
 - (4) 1999 c. 23; section 20(6) was amended by paragraph 384(a) of Schedule 8 to the Courts Act 2003 (c. 39); section 33A was inserted by section 47 of the Police and Justice Act 2006 (c. 48). Section 33BB is inserted by section 104(1) of the Coroners and Justice Act 2009, with effect from a date to be appointed.
 - (5) 2003 c. 44; section 174 was substituted by section 64 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
 - (6) 1980 c. 43; section 23 was amended by section 125 of, and paragraph 25 of Schedule 18 to, the Courts and Legal Services Act 1990 (c. 41) and paragraphs 1 and 8 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). 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).
 - (7) 1980 c. 43; section 20 was amended by section 100 of, and paragraph 25 of Schedule 11 to, the Criminal Justice Act 1991 (c. 53), paragraph 63 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and paragraphs 1 and 6 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).
 - (8) 1988 c. 53; section 57(3) and (4) was amended by regulation 2(2) and (3) of, and paragraph 17 of Schedule 2 to, S.I. 1990/144 and section 5 of, and paragraphs 1 and 5 of Schedule 1 to, the Road Safety Act 2006 (c. 49); section 57A was

[^{F10}Under section 66 of the Courts Act 2003, every holder of a judicial office listed in that section has the powers of a justice of the peace who is a District Judge (Magistrates' Courts) in relation to criminal causes and matters. The list includes Circuit judges and judges of the High Court and Court of Appeal.]

For agreement to do without a written translation in a case in which the defendant requires interpretation, see rule 3.8(5).

[^{F11}Where a court record accurately records a court's decision but a party (a) wants the court to change that decision, or (b) questions the court's power to make that decision, see rules 28.4 (Variation of sentence) and 44.3 (Reopening a case in a magistrates' court; Setting aside a conviction or varying a costs, etc. order).]]

Textual Amendments

- F1** Words in rule 5.4(1)(j)(i) substituted (4.10.2021) by [The Criminal Procedure \(Amendment No. 2\) Rules 2021 \(S.I. 2021/849\)](#), rules 1, **5(a)(i)**
- F2** Rule 5.4(1)(j)(iii)(iv) inserted (4.10.2021) by [The Criminal Procedure \(Amendment No. 2\) Rules 2021 \(S.I. 2021/849\)](#), rules 1, **5(a)(ii)**
- F3** Word in rule 5.4(1)(j)(iii) deleted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, **4(b)**
- F4** Rule 5.4(1)(j)(iv)(v) inserted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, **4(c)**
- F5** Rule 5.4(1)(j)(iv) renumbered as rule 5.4(1)(j)(vi) (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, **4(a)**
- F6** Rule 5.4(1)(k) substituted (3.10.2022) by [The Criminal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/815\)](#), rules 2, **7(a)**
- F7** Rule 5.4(3) inserted (4.10.2021) by [The Criminal Procedure \(Amendment No. 2\) Rules 2021 \(S.I. 2021/849\)](#), rules 1, **5(a)(iii)**
- F8** Rule 5.4(4)(5) inserted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, **5(a)**
- F9** Words in rule 5.4 Note inserted (4.10.2021) by [The Criminal Procedure \(Amendment No. 2\) Rules 2021 \(S.I. 2021/849\)](#), rules 1, **5(a)(iv)**
- F10** Words in rule 5.4 Note inserted (4.10.2021) by [The Criminal Procedure \(Amendment No. 2\) Rules 2021 \(S.I. 2021/849\)](#), rules 1, **5(a)(v)**
- F11** Words in rule 5.4 Note inserted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, **5(b)**

Commencement Information

- II** Rule 5.4 in force at 5.10.2020, see Preamble

added by section 9 of the Road Safety Act 2006 (c. 49) and amended by section 10 of that Act; and section 71 was amended by section 63 of, and paragraph 25(1) of Schedule 3 to, the Vehicle Excise and Registration Act 1994 (c. 22), sections 90(1) and 106 of, and paragraphs 140 and 150(1) and (2) of Schedule 13, and table 7 of Schedule 15 to, the Access to Justice Act 1999 (c. 22), section 109(1) of, and paragraph 317(1) and (2) of Schedule 8 to, the Courts Act 2003 (c. 39) and section 9(6) of, and paragraphs 2 and 22 of Schedule 2 to, the Road Safety Act 2006 (c. 49).

Changes to legislation:

There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, Section 5.4.