

Case management in the magistrates' courts

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The overriding objective

Pursuant to the overriding objective, courts are required to actively manage cases in order to ensure that they are dealt with justly in an efficient and expeditious manner.

References:

Criminal Procedure Rules 2015, [SI 2015/1490, rr 1.1](#) and [3.2](#)

Case management in the magistrates' court

The Transforming Summary Justice initiative, which was launched on 1 June 2015, is a cross-agency criminal justice scheme aimed at reforming the way in which criminal casework is dealt with in the magistrates' courts. It is focussed on reducing delay, having fewer hearings and more effective trials.

References:

[A follow-up review of the effectiveness of the Crown Prosecution Service contribution to the Transforming Summary Justice initiative](#)

Case management in the magistrates' court is governed by Criminal Procedure Rules 2015 (CrimPR), [SI 2015/1490, Pt 3](#) (as amended) together with the Criminal Practice Directions (as amended). CrimPR, [SI 2015/1490, rr 3.1–3.12](#) and [3.27](#) are particularly relevant.

References:

*CrimPR 2015, [SI 2015/1490, Pt 3](#)
[Consolidated Criminal Practice Directions](#)*

The CrimPR, [SI 2015/1490](#) and the Criminal Practice Directions are the law. Together they provide a code of current practice that is binding on the courts to which they are directed, and which promotes the consistent administration of justice. Participants must comply with the Rules and Practice Direction, and directions made by the court.

References:

*CrimPR 2015, [SI 2015/1490](#)
[Consolidated Criminal Practice Directions](#)*

For further information, see Practice Notes: [The Criminal Procedure Rules](#), [Criminal Practice Directions](#) and [Non-compliance with the Criminal Procedure Rules](#).

Case management before the first appearance

Defence representatives in all cases are now expected to request the Initial Details of the Prosecution Case (IDPC) in advance of the first hearing at the magistrates' court by email, telephone or by letter. Email is by far the most common form used for this purpose.

The essential information that must be provided in the request varies from one court centre to another but in general will include the name of the defendant, the URN number (if known), the court at which the first appearance will be held, the date it is scheduled to take place and whether the case is a bail or custody matter.

A valid Criminal Justice Secure eMail address must be provided for receipt of the papers. Save for in overnight cases, the Crown Prosecution Service (CPS) aim to deliver the IDPC two clear days ahead of the first appearance to allow for there to be effective case management at the first hearing.

For further information, see Practice Note: [Disclosure in the magistrates' court](#).

First appearances in the magistrates' court

In his 2015 report entitled, 'Review of Efficiency in Criminal Proceedings', Sir Brian Leveson explained that statistical data has for some time shown that charged cases are on average disposed of in two hearings in the magistrates' court and that the aspiration must be for a system where it is exceptional for a case to be brought back into court to overcome some case progression issue.

References:

[Review of efficiency in criminal proceedings 2015](#)

Reducing the number of hearings is also an integral feature of the Transforming Summary Justice Initiative and Better Case Management. The first appearance is thus of critical importance for ensuring that the case is managed effectively.

References:

[Better Case Management \(BCM\) Handbook](#)

CrimPR, [SI 2015/1490, r 3.27](#) states that the magistrates' court must conduct a preparation for trial hearing unless the court sends the defendant for trial in the Crown Court, or where the case is one to which CrimPR, [SI 2015/1490, r 24.8](#) or [24.9](#) applies (written guilty plea: special rules; Single justice procedure: special rules—see Practice Note: [Single justice procedure](#)).

References:

CrimPR, [SI 2015/1490, rr 3.27, 24.8, 24.9](#)

As the first appearance is usually the only pre-trial hearing in the magistrates' court, it is therefore also the 'preparation for trial' hearing for all cases to which CrimPR, [SI 2015/1490, r 3.27](#) applies.

First appearances: requirement to enter a plea

CrimPR, [SI 2015/1490, r 3.27\(3\)\(b\)](#) stipulates that at this preparation for trial hearing, the court must take the defendant's plea or if no plea can be taken then find out whether the defendant is likely to plead guilty or not guilty and the court must give directions for an effective trial.

References:

[Essential case management: applying the criminal procedure rules](#)

CrimPR, [SI 2015/1490, r 3.27\(3\)\(b\)](#)

This is supported by CrimPR, [SI 2015/1490, r 3.9](#), which requires the court to do this at every hearing where relevant, including the first hearing. The obligation to take a plea does not depend on the extent of initial disclosure, service of evidence, disclosure of unused material, or the grant of legal aid.

References:

CrimPR, [SI 2015/1490, r 3.9](#)

In very complex cases where a plea cannot be entered on the first occasion, for example in health and safety prosecutions or other cases where expert evidence/further investigations will be required before a decision on plea can be taken, the court may ask for an indication of plea. No indication of plea is treated in the same manner as a not guilty plea.

Where the case is indictable only or is plainly not suitable for summary trial, courts should, where appropriate, seek an indication of plea at the first hearing. It is not uncommon in corporate criminal cases, which are almost invariably highly complex, to have no indication of plea at the first hearing.

For information on the impact on sentencing of the failure to indicate a plea at the first opportunity, see Practice Note: [Credit for guilty plea](#).

First appearances: disclosure

The IDPC must be provided at the beginning of the first day of the first hearing. It should include sufficient information to allow the defendant and the court at the first hearing to take an informed view on plea; on venue for trial (if applicable); for the purposes of case management; or for the purposes of sentencing.

References:

[Consolidated Criminal Practice Direction, CPD 1 General Matters](#)

The court must allow the defendant 'sufficient time' to consider the information contained in the IDPC. What constitutes 'sufficient time' will depend on the circumstances of the case. According to the guidance notes which accompanied the introduction of amendments to the CrimPR, [SI 2015/1490](#) in April 2017, sufficient time 'might be no more than five to ten minutes'. Highly complex cases however, such as health and safety prosecutions or other cases dependent on expert evidence, will inevitably justify a longer period for the case to be properly considered.

References:

CrimPR, [SI 2015/1490, Pt 8](#)

[A guide to the Criminal Procedure \(Amendment\) Rules 2017, SI 2017/144](#)

For further information, see Practice Note: [Disclosure in the magistrates' court](#).

The adequacy of IDPC will depend upon the manner in which the case came before the court. If the defendant was in police custody immediately before the first appearance, the IDPC only needs to contain a summary of the circumstances of the offence, and the defendant's criminal record.

References:

CrimPR, [SI 2015/1490, Pt 8](#)

In every other case, in addition to the above, the IDPC must also contain the following:

References:

CrimPR, [SI 2015/1490, Pt 8](#)

- any account given by the defendant in interview, whether contained in the summary of circumstances of the offence or in another document
- any written witness statement or exhibit that the prosecutor then has available and considers material to plea, or to the allocation of the case for trial, or to sentence, and
- any available statement of the effect of the offence on a victim, a victim's family or others

For further information, see Practice Note: [Disclosure in the magistrates' court](#).

Complaints about the adequacy of initial disclosure may also be relevant to considering what credit should be granted following a guilty plea other than at the first appearance. The Sentencing Council Definitive Guidelines on Reduction in Sentence for a Guilty Plea states that where the sentencing court is satisfied that there were particular circumstances which significantly reduced the defendant's ability to understand what was alleged or otherwise made it unreasonable to expect the defendant to indicate a guilty plea sooner than was done, a reduction of one-third should still be made. See Practice Note: [Credit for guilty plea](#).

References:

[Sentencing Council Definitive Guidelines on Reduction in Sentence for a Guilty Plea](#)

First appearances: case management

CrimPR, [SI 2015/1490, r 3.27](#) stipulates that at the preparation for trial hearing, the court must give directions for an effective trial. This should be read in conjunction with CrimPR, [SI 2015/1490, r 3.9](#), which requires the court, at every hearing, to set 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.

References:

CrimPR, [SI 2015/1490, rr 3.9, 3.27](#)

For further information, see: [Case management in the magistrates' court—checklist](#).

Summary only and either way offences which stay in the magistrates' court for trial

Where a not guilty plea is entered to a summary only offence or to an either way offence where the case remains in the magistrates' court for trial, a Preparation for Effective Trial form (PET form) must be completed.

References:

CrimPR *PrepTrial—Preparation for effective trial*

[PDF Format](#)

This requires the prosecution and defence to insert critical case management information to enable the court to make appropriate directions for trial as required by CrimPR, [SI 2015/1490, r 3.27\(2\)](#).

References:

CrimPR, [SI 2015/1490, r 3.27\(2\)](#)

Typically the court will make directions as to:

- the date for service of prosecution evidence and disclosure
- the date for service of a defence statement (if there is an indication that one will be served)
- the date for any bad character or hearsay applications, and
- the date, time and time-estimate for trial

The court will also make directions as to the trial timetable including the time allocation for the examination-in-chief and cross-examination of witnesses. These time allocations are usually very strictly adhered to.

For further information, see: [Case management in the magistrates' court—checklist](#).

For information about the trial process in the magistrates' court, see Practice Note: [Stages of a summary trial](#).

Indictable only and either way cases that are sent for trial

Where a case is sent for trial, the advocates are required to complete a form entitled 'Crown Court—Cases sent for trial'.

References:

[Crown Court—Cases sent for trial form](#)

As well as recording information about the plea (either entered or indicated), the form requires parties to outline the 'real issues in the case' in a concise manner.

The Prosecution must identify other areas of evidence that they anticipate serving before and after the Pre-Trial and Preparation Hearing (PTPH) which will take place in the Crown Court. The Defence are required to identify what evidence they require for there to be an effective PTPH and both parties should set out any other information to assist the management of the case.

For further information, see: [Case management in the magistrates' court—checklist](#).

For information on case management in the Crown Court, see Practice Note: [Pre-trial and case management hearings in the Crown Court](#).

Applications to adjourn in magistrates' courts

The duty to actively manage cases pursuant to CrimPR, [SI 2015/1490](#) includes discouraging delay, dealing with as many aspects of the case as possible on the same occasion, and avoiding unnecessary hearings.

References:

CrimPR, [SI 2015/1490, rr 3.2\(2\)\(f\), 3.9](#)

At every hearing, if the 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.

[Section 10](#) of the Magistrates' Courts Act 1980 confers a discretionary power to adjourn.

References:

[Magistrates' Courts Act 1980, s 10](#)

[Consolidated Criminal Practice Directions—CPD 24C.7](#)

The starting point in exercising that discretion is that the trial should proceed. The basic approach was explained by Gross LJ in *Director of Public Prosecutions v Petrie*:

References:

Director of Public Prosecutions v Petrie [\[2015\] EWHC 48 \(Admin\)](#)

'It is essential that parties to proceedings in a magistrates' court should proceed on the basis of a need to get matters right first time; any suggestion of a culture readily permitting an opportunity to correct failures of preparation should be firmly dispelled.'

General factors which the magistrates will consider when determining applications to adjourn

In *Crown Prosecution Service v Picton*, the High Court set out various points to consider when determining whether to grant an adjournment in any given case. While the case is and is likely to remain an oft-cited authority for adjournment, it and subsequent authorities have now been superseded by Criminal Practice Direction 24C.

References:

[Consolidated Criminal Practice Directions—CPD 24C.7](#)

Crown Prosecution Service v Picton [\[2006\] EWHC 1108 \(Admin\)](#)

Criminal Practice Direction 24C.9 sets out eight general principles relevant to adjournment applications in the magistrates' court.

References:

[Consolidated Criminal Practice Directions—CPD 24C.9](#)

These are:

- the court's duty is to deal justly with the case, which includes doing justice between the parties
- the court must have regard to the need for expedition. Delay is generally inimical to the interests of justice and brings the criminal justice system into disrepute. Proceedings in a magistrates' court should be simple and speedy
- applications for adjournments should be rigorously scrutinised and the court must have a clear reason for adjourning. To do this, the court must review the history of the case
- where the prosecutor asks for an adjournment, the court must consider not only the interest of the defendant in getting the matter dealt with without delay but also the public interest in ensuring that criminal charges are adjudicated upon thoroughly, with the guilty convicted as well as the innocent acquitted
- with a more serious charge the public interest that there be a trial will carry greater weight. It is, however, reasonable for the court to expect that parties should have given especially careful

- attention to the preparation of trials involving serious offences or where the trial has significant implications for victims or witnesses.
- where the defendant asks for an adjournment the court must consider whether they will be able to present the defence fully without and, if not, the extent to which their ability to do so is compromised
 - the court must consider the consequences of an adjournment and its impact on the ability of witnesses and defendants accurately to recall events
 - the impact of adjournment on other cases. The relisting of one case almost inevitably delays or displaces the hearing of others. The length of the hearing and the extent of delay in other cases will need to be considered

Criminal Practice Direction 24C deals with two general principles in further detail.

References:

[Consolidated Criminal Practice Directions—CPD 24C.14–15](#)

Firstly, it addresses the relevance of fault. If the reason for an adjournment arises through the fault of the applicant then that weighs against its grant, carrying weight in accordance with the gravity of the fault.

References:

[Consolidated Criminal Practice Directions—CPD 24C.11](#)

A party must, if aware of the fault, draw attention to that fault promptly and explicitly (CrimPR, [SI 2015/1490, r 1.2\(1\)\(c\)](#)). If no such action has been taken by a party who could have done so then the court may look less favourably on any application by that same party to adjourn. In addition, even in the absence of fault it may not be in the interests of justice to adjourn, notwithstanding that an imperfect trial may be the result.

References:

CrimPR, [SI 2015/1490, r 1.2\(1\)\(c\)](#)

[Consolidated Criminal Practice Directions—CPD 24C.10](#)

The Criminal Practice Direction also pays specific attention to the length of any adjournment. The shorter the necessary adjournment, the less objectionable it will be.

References:

[Consolidated Criminal Practice Directions—CPD 24C.14–15](#)

In addition to the above general principles, Criminal Practice Direction 24C deals with four distinct grounds for adjourning trials in the magistrates' court:

References:

[Consolidated Criminal Practice Directions—CPD 24C](#)

Determining applications to adjourn—absence of the defendant

If a defendant has attained the age of 18 years, the Court shall proceed in their absence unless it appears to the court to be contrary to the interests of justice to do so.

References:

[MCA 1980, s 11](#)

[Consolidated Criminal Practice Directions—CPD 24C.17–19](#)

The presumption does not apply for defendants under 18 and the court should take into account the factors listed in Criminal Practice Direction 24C.19.

References:

[Consolidated Criminal Practice Directions—CPD 24C](#)

See Practice Note: [Criminal trial held in the absence of the defendant](#).

Determining applications to adjourn—absence of witnesses

Where the court is asked to adjourn because a witness has failed to attend, the court must:

References:

[Consolidated Criminal Practice Directions—CPD 24C.20](#)

- rigorously investigate the steps taken to secure that witness' attendance, the reasons given for absence and the likelihood of the witness attending should the case be adjourned
- consider the relevance of the witness to the case, and whether the witness' statement can be agreed or admitted, in whole or part, as hearsay, including under [section 114\(1\)\(d\)](#) of the Criminal Justice Act 2003 (see Practice Note: [Admissibility of hearsay in criminal proceedings—absent witnesses](#))
- in the case of a defence witness, consider whether proper notice has been given of the intention to call that witness
- consider whether an absent witness can be heard later in the trial, and
- where other witnesses have attended and the court has determined that the absent witness is required, consider hearing those witnesses who are present and adjourning the case part-heard, provided the next hearing can be held conveniently in a matter of days or weeks, not months, to avoid having to recall all the witnesses

Determining applications to adjourn—failure to serve evidence in time

For any application founded on this basis, the court must conduct a rigorous inquiry into the nature of the evidence and in particular, the court must satisfy itself that any material still sought is relevant and that the party seeking it has a right to it.

References:

CrimPR, [SI 2015/1490, rr 1.2\(1\)\(c\) and 3.10\(2\)\(d\)](#)

[Consolidated Criminal Practice Directions—CPD 24C.10–13](#)

The court should also consider whether the party who complains of the failure had drawn attention to it. In some circumstances, a failure to serve evidence can be addressed by refusing to admit it instead of by adjourning the trial to allow it to be served.

References:

[Consolidated Criminal Practice Directions—CPD 24C.21](#)

R v Boardman [\[2015\] EWCA Crim 175](#)

Determining applications to adjourn—failure to comply with disclosure obligations

If an adjournment is sought, the court should consider whether the matter can be resolved by the giving of disclosure immediately.

References:

[Consolidated Criminal Practice Directions—CPD 24C.23–26](#)

If it cannot, the court should consider whether the parties have complied with their obligations, and should consider the relevance of fault. If the prosecutor has complied or purported to comply with their initial disclosure obligations, no application to adjourn should be entertained unless the defendant has served a defence statement in accordance with [section 6](#) of the Criminal Procedure and Investigations Act 1996 and CrimPR, [SI 2015/1490, r 15.4](#).

References:

[Consolidated Criminal Practice Directions—CPD 24C.24](#)

[CrimPR, SI 2015/1490, r 15.4](#)

[Criminal Procedure and Investigations Act 1996, s 6](#)

For information on defence statements, see Practice Note: [Defence disclosure in criminal proceedings—defence case statements and defence witness notices](#).

It will rarely be appropriate for the appellate court to interfere with the decision of the magistrates. However, *R (on the application of) v Birmingham Magistrates' Court* provides an example of where the High Court did interfere with a first instance decision on adjournment.

References:

R (on the application of Director of Public Prosecution) v Birmingham Magistrates' Court [\[2017\] EWHC 3444 \(Admin\)](#)

The case involved allegations of sexual assault. The Court refused the prosecution application to adjourn in circumstances where the prosecution witnesses, including the complainant and her fiancé, informed the court on the day of trial that they could not attend due to five members of the complainant's family being killed in a car accident in Yemen. The witnesses would have given evidence at an adjourned trial. Although their decision was highly fact specific, the High Court determined that the decision not to adjourn the case was outside the range of reasonable decisions available and was 'Wednesbury' unreasonable. As such the decision was quashed and the case was remitted to the magistrates' court.

References:

R (on the application of Director of Public Prosecution) v Birmingham Magistrates' Court [\[2017\] EWHC 3444 \(Admin\)](#)

[Consolidated Criminal Practice Directions—CPD 24C.8](#)

Use of live link and telephone facilities for case management hearings in the magistrates' court

CrimPR, [SI 2015/1490, rr 3.2, 3.3](#) and [3.5](#) enable the court to make orders for the use live links and telephones for the conduct of pre-trial hearings in the magistrates' court, including pre-trial case management hearings.

References:

CrimPR, SI 2015/1490, rr 3.2, 3.3, 3.5

Such orders can be made at the request of either party or by the court's own motion and an obligation is placed on the prosecution and defence to alert the court to any reason why live link or telephone hearings are not appropriate.

References:

CrimPR, SI 2015/1490, rr 3.2, 3.3, 3.5

These rules are supplemented by the Criminal Practice Directions at CPD I General matters 3N: Use of live link and telephone facilities which direct courts to use these powers to conduct hearings by live link or telephone whenever it is lawful and in the interests of justice to do so. They also provide specific guidance on establishing and using live link and telephone facilities for criminal court hearings at CPD 1 Annex 1 which supplements CPD 1 General matters 3N.

References:

[Consolidated Criminal Practice Directions—CPD 1 General Matters 3N and Annex 1](#)

See Practice Note: [Use of live link and telephone facilities for pre-trial hearings](#).

Live link

As part of its overriding objective to manage cases effectively, CrimPR, [SI 2015/1490, r 3.2\(4\)](#) puts a duty on the court to consider the use of live link technology whether or not an application for it has been made by any party.

References:

CrimPR, [SI 2015/1490, r 3.2\(4\)](#)

[Consolidated Criminal Practice Directions—CPD 1 General Matters 3N and Annex 1](#)

Pre-trial case management hearings can be heard via video-link provided that the defendant can effectively participate in those proceedings.

Telephone hearings

Under CrimPR, [SI 2015/1490, r 3.2\(5\)](#), the court may direct that a pre-trial case management hearing should take place via telephone if the court has the necessary telephone facilities in place:

References:

CrimPR, [SI 2015/1490, r 3.2\(5\)](#)

[Consolidated Criminal Practice Directions—CPD 1 General Matters 3N and Annex 1](#)

- using the telephone is more convenient than using live links
- unless at that hearing the court expects to take the defendant's plea, and
- only if the defendant is represented or (in exceptional circumstances) the court is satisfied that the hearing can be conducted by telephone albeit the defendant is not represented

Despite this express authorisation, most magistrates' courts do not yet have the facilities for conducting hearings via telephone.

Additional case management hearings

Although the objective is to have only one hearing in the magistrates' court before the trial, more complex matters, for example a fraud, may necessitate an additional hearing to effectively manage the case.

Cases should also be listed at the request of the parties if issues are raised as to compliance with case management directions. It is significantly more difficult to criticise failures to comply on the date of trial if the court's attention has not been drawn to that fact previously.

Consequences of failing to comply with case management directions

Failure to comply with a case management direction without the consent of the court may have serious consequences for the conduct of the case by the defaulting party or parties. CrimPR, [SI 2015/1490, r 3.5](#) states that if a party fails to comply with a rule or a direction, the court may:

References:

CrimPR, [SI 2015/1490, r 3.5](#)

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

It is of paramount importance that case management failures are brought to the attention of the court and the other side at the earliest opportunity. The Court of Appeal in *R v Boardman* (chaired by Sir Brian Leveson QC) upheld a ruling that critical prosecution evidence should be excluded under [section 78](#) of the Police and Criminal Evidence Act 1984 because of egregious failings in the prosecution's service of evidence and management of the case. It did not matter that the effect of this ruling was effectively to end the prosecution case.

References:

R v Boardman [\[2015\] EWCA Crim 175](#)
[Police and Criminal Evidence Act 1984, s 78](#)

The case makes clear that both parties are responsible for the management of the case and that there should be an active dialogue between the parties to raise issues of case management as they arise.

For further information, see Practice Note: [Non-compliance with the Criminal Procedure Rules](#).