

AMENDMENTS TO THE CRIMINAL PRACTICE DIRECTIONS JULY 2018

SUMMARY OF KEY CHANGES

This is the seventh amendment to the Criminal Practice Directions 2015¹. It is issued by the Lord Chief Justice on 26th July 2018 and will come into force on 1st October 2018.

This update provides amendments to existing Criminal Practice Directions and supplements the Criminal Procedure (Amendment No. 2) Rules 2018 SI 2018/847 that come into force on 1st October 2018. The Table of Content is amended accordingly.

1. CPD I General matters 3F: INTERMEDIARIES

The additions at paragraph 3F.12 and 3F.13 serve to highlight the merit in an application for a support worker or other companion who can provide assistance when it has not been necessary to appoint an intermediary, but a defendant may benefit from some additional support to understand the proceedings.

2. CPD I General matters 3N: USE OF LIVE LINKS AND TELEPHONE FACILITIES

Paragraph 3N.6 has been amended to ensure that the magistrates' court should take into account representations before the first hearing about suitability for a defendant with any mental health concerns to appear by way of live link from the police station. It should not be automatically assumed that a person is fit to attend this way, especially when there have been mental health assessments undertaken at the police station.

3. CPD I General matters 3P: COMMISSIONING MEDICAL REPORTS

This new section has been introduced following the Criminal Procedure Rule Committee's consideration of the processes that are in place for ordering psychiatric assessments. This was following a request from the Coroner at the inquest into the death of Sarah Reed in HMP Holloway who was on remand, for some considerable time, awaiting psychiatric reports to be completed. The new sections and amended corresponding Criminal Procedure Rules contain important provisions that set out what the court will need to consider when ordering a report and the timetabling and practical arrangements for making such a request. See related amendments (detailed below) to CPD VII SENTENCING R when ordering medial reports for sentencing purposes.

¹ [2015] EWCA Crim 1567. Amendment Number 1 [2016] EWCA Crim 97 was issued by the Lord Chief Justice on 23rd March 2016 and came into force on the 4th April 2016. Amendment Number 2 [2016] EWCA Crim 1714 was issued by the Lord Chief Justice on 16th November 2016 and came into force on 16th November 2016. Amendment Number 3 [2017] EWCA Crim 30 was issued by the Lord Chief Justice and came into force on the 31st January 2017. Amendment Number 4 [2017] EWCA Crim 310 was issued by the Lord Chief Justice on 28th March 2017 and came into force on 3rd April 2017. Amendment Number 5 [2017] EWCA Crim 1076 was issued by the Lord Chief Justice on 27th July 2017 and came into force on 2nd October 2017. Amendment Number 6 [2018] EWCA Crim 516 was issued by the Lord Chief Justice on 21st March 2018 and came into force on 2nd April 2018.

4. CPD V Evidence 18D: WITNESS ANONYMITY ORDERS

The amendments at paragraphs 18D.10, 18D.18, 18D.19, 18D.20, 18D.21 and 18D.26 have been included to ensure that the court and court staff have regard to the important operational requirements that are necessary to ensure that when a witness has been granted this important protection, steps are taken to ensure that the witness' identity is not compromised, which may, in turn, jeopardise the effectiveness of the trial.

5. CPD VII Sentencing R: MEDICAL REPORTS FOR SENTENCING PUPOSES

This new section contains important guidance on the timetabling and commissioning of medical reports required for sentencing. It is essential that the courts, practitioners and professional report writers follow the related amended Criminal Procedure Rules and these practice directions to ensure that the proper procedures and processes are adhered to when commissioning these and other types of medical reports.

6. CPD IX Appeal 34A: APPEALS TO THE CROWN COURT: INFORMATION FROM THE PARTIES

These new paragraphs in 34A establish new guidance as to the relevant information that is required from the parties in the event of an appeal to the Crown Court.

7. CPD IX Appeal 34B: APPEAL TO THE CROWN COURT: INFORMATION FROM THE MAGISTRATES' COURT

The new section at 34B emphasises the importance of the relevant material being available to the Crown Court hearing the appeal and details the operational requirements for ensuring that that happens.

8. CPD IX Appeal 39C: APPEAL NOTICES CONTAINING GROUNDS OF APPEAL

The additional paragraph at 39C.4 imports the relevant consideration that the Court of Appeal shall have regard to following the case of *R v James and Others* [2018] ECA Crim 285. This outlines what an appellant, or his advocate, needs to satisfy the court when he wishes to rely on a ground of appeal that is not identified by the appeal notice.

9. CPD IX Appeal 39C: DIRECT LODGEMENT

These new paragraphs outline the new procedure for the direct lodgement of Forms NG and Grounds of Appeal at the Criminal Appeal Office, rather than at the Crown Court where the trial has been held.

10. CPD IX Appeal 39E: LOSS OF TIME

These sections are updated to take into account of Court of Appeal decision in *R v Gray & Others* [2014] EWCA crim 2372.