

## THE OVERRIDING OBJECTIVE

**The overriding objective**

**1.1.**—(1) The overriding objective of this procedural code is that criminal cases be dealt with justly.

(2) Dealing with a criminal case justly includes—

- (a) acquitting the innocent and convicting the guilty;
- (b) dealing with the prosecution and the defence fairly;
- (c) recognising the rights of a defendant, particularly those under Article 6 of the European Convention on Human Rights;
- (d) respecting the interests of witnesses, victims and jurors and keeping them informed of the progress of the case;
- (e) dealing with the case efficiently and expeditiously;
- (f) ensuring that appropriate information is available to the court when bail and sentence are considered; and
- (g) dealing with the case in ways that take into account—
  - (i) the gravity of the offence alleged,
  - (ii) the complexity of what is in issue,
  - (iii) the severity of the consequences for the defendant and others affected, and
  - (iv) the needs of other cases.

**The duty of the participants in a criminal case**

**1.2.**—(1) Each participant, in the conduct of each case, must—

- (a) prepare and conduct the case in accordance with the overriding objective;
- (b) comply with these Rules, practice directions and directions made by the court; and
- (c) at once inform the court and all parties of any significant failure (whether or not that participant is responsible for that failure) to take any procedural step required by these Rules, any practice direction or any direction of the court. A failure is significant if it might hinder the court in furthering the overriding objective.

(2) Anyone involved in any way with a criminal case is a participant in its conduct for the purposes of this rule.

**The application by the court of the overriding objective**

**1.3.** The court must further the overriding objective in particular when—

- (a) exercising any power given to it by legislation (including these Rules);
- (b) applying any practice direction; or
- (c) interpreting any rule or practice direction.

## CASE MANAGEMENT

**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.

(4) Where appropriate live links are available, making use of technology for the purposes of this rule includes directing the use of such facilities, whether an application for such a direction is made or not—

- (a) for the conduct of a pre-trial hearing, including a pre-trial case management hearing;
- (b) for the defendant's attendance at such a hearing—
  - (i) where the defendant is in custody, or where the defendant is not in custody and wants to attend by live link, but
  - (ii) only if the court is satisfied that the defendant can participate effectively by such means, having regard to all the circumstances including whether the defendant is represented or not; and
- (c) for receiving evidence under one of the powers to which the rules in Part 18 apply (Measures to assist a witness or defendant to give evidence).

(5) Where appropriate telephone facilities are available, making use of technology for the purposes of this rule includes directing the use of such facilities, whether an application for such a direction is made or not, for the conduct of a pre-trial case management hearing—

- (a) if telephone facilities are more convenient for that purpose than live links;
- (b) unless at that hearing the court expects to take the defendant's plea; and
- (c) only if—
  - (i) the defendant is represented, or
  - (ii) exceptionally, the court is satisfied that the defendant can participate effectively by such means without a representative.

**The duty of the parties**

**3.3.**—(1) 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.

- (2) Active assistance for the purposes of this rule includes—
- (a) at the beginning of the case, communication between the prosecutor and the defendant at the first available opportunity and in any event no later than the beginning of the day of the first hearing;
  - (b) after that, communication between the parties and with the court officer until the conclusion of the case;
  - (c) by such communication establishing, among other things—
    - (i) whether the defendant is likely to plead guilty or not guilty,
    - (ii) what is agreed and what is likely to be disputed,
    - (iii) what information, or other material, is required by one party of another, and why, and
    - (iv) what is to be done, by whom, and when (without or if necessary with a direction);
  - (d) reporting on that communication to the court—
    - (i) at the first hearing, and
    - (ii) after that, as directed by the court; and
  - (e) alerting the court to any reason why—
    - (i) a direction should not be made in any of the circumstances listed in rule 3.2(4) or (5) (The duty of the court: use of live link or telephone facilities), or
    - (ii) such a direction should be varied or revoked.

### **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.

*(The note to rule 3.5 lists the sanctions available to the court.)*

### Case preparation and progression

**3.9.**—(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;
- (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 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.

(4) Facilitating the participation of the defendant includes finding out whether the defendant needs interpretation because—

- (a) the defendant does not speak or understand English; or
- (b) the defendant has a hearing or speech impediment.

(5) Where the defendant needs interpretation—

- (a) the court officer must arrange for interpretation to be provided at every hearing which the defendant is due to attend;
- (b) interpretation may be by an intermediary where the defendant has a speech impediment, without the need for a defendant's evidence direction;
- (c) on application or on its own initiative, the court may require a written translation to be provided for the defendant of any document or part of a document, unless—
  - (i) translation of that document, or part, is not needed to explain the case against the defendant, or
  - (ii) the defendant agrees to do without and the court is satisfied that the agreement is clear and voluntary and that the defendant has had legal advice or otherwise understands the consequences;
- (d) on application by the defendant, the court must give any direction which the court thinks appropriate, including a direction for interpretation by a different interpreter, where—
  - (i) no interpretation is provided,
  - (ii) no translation is ordered or provided in response to a previous application by the defendant, or
  - (iii) the defendant complains about the quality of interpretation or of any translation.

(6) Facilitating the participation of any person includes giving directions for the appropriate treatment and questioning of a witness or the defendant, especially where the court directs that such questioning is to be conducted through an intermediary.

(7) Where directions for appropriate treatment and questioning are required, the court must—

- (a) invite representations by the parties and by any intermediary; and
- (b) set ground rules for the conduct of the questioning, which rules may include—
  - (i) a direction relieving a party of any duty to put that party's case to a witness or a defendant in its entirety,
  - (ii) directions about the manner of questioning,
  - (iii) directions about the duration of questioning,
  - (iv) if necessary, directions about the questions that may or may not be asked,
  - (v) where there is more than one defendant, the allocation among them of the topics about which a witness may be asked, and
  - (vi) directions about the use of models, plans, body maps or similar aids to help communicate a question or an answer.

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

**3.11.** 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.