



Magistrate’s Court of Jersey

Practice Directions - MC 23/01 - General

These Practice Directions are issued by the Magistrate under Article 113 Criminal Procedure (Jersey) Law 2018 [“the Law”] and shall come into force on 06 February 2023. They are to be read together with the Law, the Criminal Procedure (Jersey) Rules 2021 [“the Rules”] and any further Practice Directions that may be issued by the Magistrate.

The overriding objective of the Law is to ensure that cases in criminal proceedings are dealt with justly. Dealing with cases justly includes acquitting the innocent and convicting the guilty, recognising the rights of the defendant, particularly the right to a fair trial, and dealing with cases efficiently and expeditiously.

It is the duty of all participants in criminal proceedings to prepare and conduct cases in accordance with the overriding objective and to comply with the relevant procedures. The Law, the Rules and these Practice Directions are the relevant procedures in the Magistrate’s Court.

Contents

Section	Title
1	Case management and the duties of participants and parties
2	Communication with the Court
3	Notification of representation
4	Making an application to Court
5	Attendance at Court, including use of video link
6	Court dress
7	Interpreters
8	Listing
9	The Pre-Court meeting
10	Submission of documentation to the Court (other than trial bundles)
11	Submission of authorities to the Court
12	Skeleton arguments
13	Variation of time limits
14	Requests for Information
15	Access to recordings or transcripts of hearings
16	Judgments
Appendix A	Form 1A – General Application Form 1B – Response to General Application

1 Case Management and the duties of participants and parties

- 1.1** All participants are reminded of their duties under Article 4 to:
- a) prepare and conduct the case in accordance with the overriding objective;
 - b) comply with the relevant procedures; and
 - c) as soon as reasonably practicable, inform the Court and all parties to the proceedings if there is a significant failure to take a procedural step required by the relevant procedures.
- 1.2** The Court has a duty under Article 7 to further the overriding objective by actively managing cases in criminal proceedings. Each party has a duty under Article 8 to actively assist the Court in fulfilling this duty.
- 1.3** The parties shall apply to the Court for any direction necessary to further the overriding objective. This duty applies to the conduct of the case as a whole and is not limited to applications from each party solely to advance their own case.
- 1.4** The duty of the parties to actively assist the Court includes ongoing communication between the parties and with the Court until the conclusion of the case.
- 1.5** All parties are required to adhere to the timetables set by these Practice Directions and to specific directions set by the Court. Where there has been a failure to take a procedural step or to comply with a direction, it is the responsibility of both parties to notify the Court and to seek further directions.

2 Communication with the Court

- 2.1** All communication with the Court shall be sent via e-mail to the Magistrate's Court Greffier ("the Greffier") at mcg@courts.je, even if the name of the Greffier dealing with a case is known.
- 2.2** All communication with the Court shall be clear and concise. E-mails shall identify the name of the defendant and the date of the next hearing in the subject heading, and immediately identify the reason for the communication.

2.3 No attempt shall be made by any participant to communicate directly with a Magistrate in connection with any case before the Court.

2.4 No party shall copy the Greffier into correspondence between themselves and any other party concerning matters specific to the case or issues in the Court. Correspondence with the Greffier should take place only where action is required by the Court, in which case the party or parties shall set out clearly what action they are seeking.

3 Notification of representation

3.1 Defence Advocates shall inform the Greffier and the Prosecution of their appointment at the earliest opportunity. They shall also indicate whether the defendant requires an interpreter or other assistance.

3.2 Failure to inform the Prosecution of appointment will lead to delay in service of the initial prosecution case and the Defence being unable to comply with the requirement under Article 23 to enter a plea on first appearance. Where there has been a failure to take timely action to obtain service of the initial prosecution case or to take instructions in advance of a hearing, the Defence Advocate shall explain the delay to the Court and may be subject to an application for costs under Part 12.

4 Making an application to the Court

4.1 Unless the relevant procedures set out a specific form to be used, an application to the Court shall be made using Form 1A (Appendix A) and the response to the application shall be made using Form 1B (Appendix A). The Forms shall be completed in PDF format and filed with the Court via e-mail.

4.2 The parties shall discuss the application before it is submitted and consider any directions to be sought, including any necessary timetable. Where the Respondent fails to complete Form 1B, the Applicant shall notify the Court.

4.3 All applications shall be submitted as attachments to an e-mail. The Greffier will not accept an application in the body of an e-mail.

4.4 Unless either party requests an oral hearing, or the Court considers that such a hearing is in the interests of justice, all applications will be considered by the Court on the papers and the parties will be notified of the Court's decision by the Greffier.

4.5 An explanation will be required for any late submission of an application. If this leads to a delay in proceedings, there may be an application for costs under Part 12.

5 Attendance at Court, including use of video link

5.1 Subject to paragraph 5.2, or unless otherwise directed by the Court, all parties are required to attend before the Court in person.

5.2 Where a defendant in custody wishes to appear in person for any hearing other than a trial, representations to that effect shall be made at the time that the hearing date is set, or as soon as possible thereafter.

5.3 Where a party other than a defendant in custody wishes to appear before the Court by video link, they shall make a written application to the Court, no later than three working days before the hearing date. Where the requirement to appear remotely becomes apparent less than three working days before the hearing, the application shall be made as soon as possible.

6 Court dress

6.1 All persons appearing in the Magistrate's Court shall be of a smart, sober, decent, and tidy appearance.

6.2 Attire for lawyers appearing before the Magistrate's Court shall be dark coloured business dress, robes and bands/collarette as appropriate.

6.3 Attire for lawyers appearing before the Youth Court shall be dark coloured business dress.

6.4 The above is subject to any direction to the contrary that might be given in an individual case (e.g. in cases involving special measures).

7 Interpreters

- 7.1** The timely provision of an interpreter relies upon clear communication by a party or a participant that an interpreter is required.
- 7.2** The person who charges or causes a defendant to be summoned to Court shall notify the Greffier at the earliest opportunity if it appears that the defendant requires an interpreter to participate properly in court proceedings. Where a defendant appears before the Youth Court, the Court shall be notified whether it appears that the defendant's parent(s)/guardian(s) require an interpreter.
- 7.3** When the Defence informs the Court of their instruction in a case, they shall also indicate whether the defendant appears to require an interpreter.
- 7.4** Where a party believes that a witness requires an interpreter, the party calling the witness shall make the request at the Pre-Trial Directions Hearing ("PTDH").
- 7.5** Whether a defendant or witness requires an interpreter to participate properly in Court proceedings is a matter for the Court.
- 7.6** The Court will arrange and pay for any interpreter it deems necessary. Where an interpreter is provided, the parties may use the interpreter to speak to the defendant/witness(es) at Court before, during and after the hearing.
- 7.7** Where it is not possible for the Court to provide an interpreter in person a remote interpretation service may be used.

8 Listing

- 8.1** The listing of cases is at the sole discretion of the Court.
- 8.2** Where a party or participant wishes to change the date of any hearing, they shall make a written application to the Court and notify the other party at the earliest opportunity.
- 8.3** Such an application should only be made where a change of the hearing date is necessary to ensure an effective hearing in accordance with the overriding objective.

- 8.4** Where the availability of an individual lawyer is an issue, arrangements should be made by the instructed lawyer to secure the attendance of an alternative lawyer. Only where no other suitable lawyer is available to assist will an application to change the hearing date be considered by the Court.
- 8.5** Where an application is made to change a Court hearing date, the Court may determine the matter on the papers. The Greffier will inform the parties and any other relevant participants of the Court's decision.
- 8.6** All court hearings including trials will remain listed on the original date unless or until changed by the Court. No party shall de-warn their witnesses until the Court has determined the application.
- 8.7** Where the Court grants the application to change a hearing date, the Greffier will provide a new bail form or new bail refusal form (as the case may be) to the defendant's lawyer or directly to the defendant. Where the change of date relates to the first hearing, the case will remain listed and the defendant will be bailed to the new date in the absence of the parties.

9 The Pre-Court meeting

- 9.1** Prosecution and Defence Advocates shall attend at the Remand Court no later than 9.40 a.m. on the day of the hearing for a pre-Court meeting. The purpose of the pre-Court meeting is to assist the Court in actively managing cases in accordance with the overriding objective.
- 9.2** The pre-Court meeting will be conducted by the Greffier with the parties to confirm the following:
- a) who appears on behalf of the Prosecution for each case;
 - b) who represents each defendant;
 - c) the status of each case, including:
 - what plea(s) will be entered;
 - the parties' views on venue;
 - the parties' views on bail;

- what progress may be made at the hearing; and
- d) the preferred order in which cases will be called.

9.3 The order in which cases will be called is at the discretion of the Court.

9.4 Parties are respectfully reminded that the pre-Court meeting is part of the Court process and that their participation shall always be courteous and respectful. Discussions between the parties should be concluded before the beginning of the pre-Court meeting to ensure all parties can participate fully in the pre-Court meeting.

10 Submission of documentation to the Court (other than trial bundles)

10.1 All documents submitted to the Court by the parties shall be provided as soon as practicable and in any event no later than two working days before a hearing date, unless otherwise provided.

10.2 Where a document becomes available less than two working days before the hearing, the document shall be submitted to the Court by e-mail as soon as possible.

10.3 Documents submitted to the Court shall be sent as individual attachments to an e-mail. Where several documents are received as one scanned image, the Greffier will not accept the documentation and will require its resubmission.

10.4 All documents submitted to the Court by either party shall also be provided to the other party, except documents submitted by the Defence which relate solely to sentence such as personal references.

10.5 Paper copies of documents should not be provided to the Court and/or the other party unless it is impossible to provide these by e-mail prior to the hearing date. An explanation for their late submission will be required by the Court. Submission of paper documentation on the day of hearing may lead to delay in the case being called or dealt with. Any such delay may lead to an application for costs under Part 12.

11 Submission of authorities to the Court

- 11.1** Parties are responsible for ensuring that the Court is provided with the material it needs to consider any matter. The Court should be asked to consider only relevant and necessary authorities.
- 11.2** Authorities should only be cited where it is necessary to do so and the relevant passage or passages shall be highlighted.
- 11.3** All authorities shall be provided to the Court and to every other party in the proceedings no later than five working days prior to any hearing and shall be submitted by e-mail. Where more than one authority is submitted, they shall be sent as individual attachments to the e-mail. Where several documents are received as one scanned image, the Greffier will not accept the documentation and will require its resubmission.
- 11.4** An explanation for the late submission of documentation will be requested by the Court. Submission of paper documentation on the day of hearing could lead to delay in the case being dealt with and may result in an adjournment. Any such delay may lead to an application for costs under Part 12.

12 Skeleton arguments

- 12.1** The Court will order the submission of skeleton arguments as it considers necessary. Skeleton arguments will be required for:
- a) an application to stay proceedings for abuse of process;
 - b) an application to request recusal of any Magistrate or Youth Court panel member;
 - or
 - c) an application for leave of the Court to vacate a guilty plea.
- 12.2** The party seeking to advance legal argument will be required to serve their skeleton argument before the respondent.
- 12.3** Where skeleton arguments are ordered by the Court they shall:
- a) begin by identifying the issues;
 - b) be concise;

- c) be presented in not less than 12-point font and 1.5 line spacing;
- d) be set out in numbered paragraphs;
- e) be self-contained and not cross-reference any material previously submitted to the Court;
- f) not include extensive quotations from other documents or authorities; and
- g) where an authority is referred to, the skeleton argument should state the proposition in law that the authority demonstrates and identify, but not quote extensively, the parts of the authority that support the proposition.

13 Variation of time limits

13.1 An application to vary any time limit set by a relevant procedure or direction given by the Court shall be made at the earliest opportunity after the need for the variation is identified.

13.2 Any application that requires the Court to exercise its power to shorten or extend (even after it has expired) a time limit under Article 9(2)(f) shall explain why the time limit has not been met.

14 Requests for information

14.1 Subject to paragraphs 14.2 and 14.3 (below) any person seeking to obtain information held by the Greffier, shall specify who is making the request, what information or document is sought and the reason it is required. Such application will be considered by a Magistrate and, should it be granted, the information will be provided by the Greffier.

14.2 Where the Greffier is satisfied of the identity of the person making the request for information, no written application is required where the request relates to:

- a) information or documentation that was originally received from the party requesting the same; or
- b) information about the terms of any direction or order made in relation to the person applying.

14.3 No written application is required where the request for information relates to:

- a) the date of any public hearing;
- b) the charges before the Court and any plea entered;
- c) the Court's decision at any hearing; or
- d) the first name and surname of any defendant, other than where the identity of the defendant is protected by law or any other direction of the Court.

14.4 Where it is considered that a request for information should be dealt with as a request under data protection legislation, the Greffier will provide appropriate guidance.

15 Access to recordings or transcripts of hearings

15.1 This section applies where a party or participant wishes to:

- a) listen to a recording of a hearing;
- b) obtain a written transcript of a hearing; or
- c) be provided with a copy of a recording of a hearing.

15.2 Where an appeal is lodged with the Royal Court, the Greffier will arrange for a transcript to be provided for the hearing of the appeal. No action need be taken by any party to obtain such a transcript.

15.3 In all other circumstances access to or provision of a recording or transcript of a Court hearing is at the discretion of the Court. A person who wishes to have access to a recording or to obtain a transcript, shall apply in writing using the appropriate form (Request for an Audio Recording of a Court Hearing; Request for Written Transcript of a Court Hearing; Request to Listen to a Court Hearing), copies of which may be obtained from the Greffier.

16 Judgments

16.1 Where a judgment is reserved, the Court will indicate a date for the parties to return to Court to receive the judgment.

16.2 All judgments will be delivered in open Court unless the case requires a hearing other than in public. Where a hearing is not held in public the Court will provide a redacted written judgment for publication.

16.3 Judgments may be given as a written judgment or a short form oral judgment. Where a short form oral judgment is delivered, the Court may in addition consider producing a more detailed written judgment at a later date. If it does so then that written judgment shall be the authoritative version.

16.4 If any party wishes there to be a written judgment a request should be made at the conclusion of the case or at the earliest opportunity thereafter.

Appendix A

General Application



Magistrate's Court of Jersey

FORM 1A: GENERAL APPLICATION	
Attorney General v [Name of defendant]	
Prosecutor	
Defendant or Advocate	
Charge(s) and pleas:	
Date of next hearing:.....	
Nature of the application:	
Grounds for the application: <i>(include any relevant background information and, where relevant, what steps you have taken to avoid this application)</i>	
Additional requirements <i>(e.g., Affidavits)</i>	
Legal basis for application:	
How does this application further the overriding objective?	
Do you request a Court hearing?	YES <input type="checkbox"/> NO <input type="checkbox"/>
What directions do you seek from the Court?	
Signed	(Defendant or Advocate) or Prosecutor
Date:	



Magistrate's Court of Jersey

FORM 1B: Response to General Application	
Attorney General v [Name of defendant]	
Prosecutor	
Defendant or Advocate	
Date application received:	
1. The application is not opposed	<input type="checkbox"/>
1. The application is opposed, and an oral hearing is requested The reasons for opposing the application are:	<input type="checkbox"/>
2. The application is opposed, and no oral hearing is requested The reasons for opposing the application are:	<input type="checkbox"/>
Signed (Defendant or Advocate) or Prosecutor	
Date:	