



Magistrate's Court of Jersey

Practice Directions – MC 23/03 – Bail

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”], the Criminal Procedure (Bail) (Jersey) Law 2017 [“the Bail Law”] and the Criminal Procedure (Bail) Rules 2019 [“the Bail Rules”].

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 the Practice Directions are the relevant procedures in the Magistrate's Court.

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1 Applications for bail

Full bail applications and limited bail applications

Approach of the Court

- 1.1 A full bail application is one in which the defendant may submit any relevant argument of fact or law in support of the application.
- 1.2 A limited bail application is one in which the Court need not hear arguments of fact or law which it has heard previously (Article 7(5) of the Bail Law).
- 1.3 A defendant may make two full bail applications but only where they are made on the defendant's first and second Court appearances respectively. A full bail application may be made on the third or subsequent appearance but only where no previous application has been made.
- 1.4 If a full bail application is made for the first time on a second or subsequent appearance any further application will be a limited bail application.
- 1.5 Where a limited bail application is made the Defence shall focus on information which the Court has not heard before, including any change in the defendant's circumstances or any new information. Submissions shall be relevant to the reasons why bail was previously denied.
- 1.6 Where a defendant is not legally represented, they may send a completed application to the Greffier at mcg@courts.je. The Greffier will send the application to the Prosecution.
- 1.7 Where a defendant wishes to withdraw an application for bail, they shall inform the Court and the Prosecution in writing at the earliest opportunity.

Full bail application on first appearance

- 1.8 The Prosecution shall complete a Form 1A (Appendix A), file it with the Court and serve it on the defendant. Where possible the Form 1A shall be in PDF format and filed/served via e-mail.
- 1.9 When a defendant held in custody first appears before the Court they may apply for bail by completing Form 1B (Appendix A) which shall be filed with the Court and served on

the Prosecution at the earliest opportunity. Where possible the application shall be in PDF format and filed/served via e-mail.

Full bail application on second appearance

- 1.10 The Defence shall inform the Prosecution that they intend to make a full bail application on the second appearance. If the Prosecution maintains the position stated on Form 1A, there is no requirement for a new Form 1A to be submitted. The Prosecution shall inform the Court and Defence that no further Form 1A will be filed. Alternatively, the Prosecution shall complete a new Form 1A in PDF format, file it with the Court and serve it on the Defence no later than three working days before the hearing.
- 1.11 Where a defendant has not made a previous bail application, the defendant shall complete Form 1B, in PDF format, file it with the Court and serve it on the Prosecution. Where a defendant has made a bail application previously and wishes to rely on the information in Form 1B filed/served there is no requirement to file/serve a new Form 1B. They shall inform the Court and Prosecution that no further Form 1B will be filed/served. Where a defendant wishes to rely on additional information or legal arguments, they shall complete a new Form 1B, in PDF format, file it with the Court and serve it on the Prosecution.
- 1.12 Where a full bail application is to be made other than at the next scheduled hearing, the Defence shall complete Form 1B in PDF format, file it with the Court and serve it on the Prosecution by e-mail at the earliest opportunity. If the Prosecution maintains the position stated on Form 1A, there is no requirement for a new Form 1A to be submitted. The Prosecution shall inform the Court and Defence that no further Form 1A will be filed. Alternatively, the Prosecution shall complete a new Form 1A in PDF format, file it with the Court and serve it on the defendant no later than two working days after receipt of Form 1B. The Court will fix a hearing date as soon as practicable and notify the parties.

Application for bail on third or subsequent appearance

- 1.13 There are two alternatives with respect to bail applications on third or subsequent appearance. Either a defendant wishes to make a first full bail application, or they wish to make a limited bail application based on material not considered previously by the Court.

First full bail application on a third or subsequent appearance

- 1.14 The Defence shall inform the Prosecution that they intend to make a full bail application at the next appearance. If the Prosecution maintains the position stated on Form 1A, there is no requirement for a new Form 1A to be submitted. The Prosecution shall inform the Court and Defence that no further Form 1A will be filed. Alternatively, the Prosecution shall complete a new Form 1A in PDF format, file it with the Court and serve it on the defendant no later than three working days before the hearing.
- 1.15 The Defence shall complete Form 1B in PDF format, file it with the Court and serve it on the Prosecution by e-mail no later than one working day before the next hearing.
- 1.16 Where a first full bail application is to be made other than at the next scheduled hearing, the Defence shall complete Form 1B in PDF format, file it with the Court and serve it on the Prosecution by e-mail at the earliest opportunity. If the Prosecution maintains the position stated on Form 1A, there is no requirement for a new Form 1A to be submitted. The Prosecution shall inform the Defence and Court that no further Form 1A will be filed. Alternatively, the Prosecution shall complete a new Form 1A in PDF format, file it with the Court and serve it on the defendant no later than two working days after receipt of Form 1B. The Court will fix a hearing date as soon as practicable and notify the parties.

Limited bail application on third or subsequent hearing

- 1.17 The Defence shall complete Form 2A (Appendix B) in PDF format, file it with the Court and serve it on the Prosecution no later than three working days before the next hearing.
- 1.18 The Prosecution shall complete Form 2B (Appendix B) in PDF format, file it with the Court and serve it on the Defence no later than one working day before the hearing.
- 1.19 Where the application is to be made other than at the next scheduled hearing, the Defence shall complete Form 2A in PDF format, file it with the Court and serve it on the Prosecution by e-mail at the earliest opportunity. The Prosecution shall complete Form 2B in PDF format, file it with the Court and serve it on the Defence no later than two working days after receipt of Form 2A. The Court will fix a hearing date as soon as practicable and notify the parties.

2 Application to vary bail conditions

- 2.1 The Defence or the Prosecution may apply to the Court to vary bail conditions. The Applicant shall complete Form 3A (Appendix C) in PDF format, file it with the Court and serve it on the Respondent by e-mail at the earliest opportunity. Where the application is to be made at the next scheduled hearing, the application shall be filed with the Court no later than three working days before that hearing.
- 2.2 The Respondent shall complete Form 3B (Appendix C) in PDF format, file it with the Court and serve it on the Applicant no later than one working day before the scheduled hearing.
- 2.3 Where the application is to be made other than at the next scheduled hearing, the parties shall indicate on their respective Forms whether or not they request a hearing. Where no hearing is requested by either party, the application will be considered on the papers unless the Court directs otherwise. The parties will be informed of the Court's decision. The Greffier will provide the parties with amended bail conditions as necessary.
- 2.4 Where the Court directs that the application is to be considered at a hearing, the Greffier will arrange a hearing as soon as practicable.

3 Security

- 3.1 The Court may, as a condition of bail, require a defendant to provide a security for their surrender to custody.
- 3.2 Where a defendant wishes to apply for bail subject to a security they shall complete Form 1B (full bail application) or Form 2B (limited bail application) and Form 4A (Appendix D). Forms are to be completed in PDF format, filed with the Court and served on the Prosecution via e-mail at the earliest opportunity.
- 3.3 The Prosecution shall complete Form 1A or Form 2A (as necessary) and Form 4B (Appendix D), in PDF format, file them with the Court and serve them on the defendant via e-mail no later than one working day before the Court hearing.
- 3.4 Where a defendant wishes the application to be heard before the next scheduled hearing, the Greffier will fix a hearing as soon as practicable and notify the parties.

Payment of security

- 3.5 The security shall be deposited with the Viscount before the defendant can be released from the custody of the Court. Under Article 12(2) of the Bail Law the sum may be paid by the defendant or by someone else on the defendant's behalf.

4 Surety

- 4.1 A defendant may propose a person to stand as surety to secure the defendant's surrender to custody. The Court will consider the suitability of the proposed individual to stand as the defendant's surety; the surety will be required to attend a Court hearing.
- 4.2 Where a defendant wishes to apply for bail subject to surety they shall complete Form 1B (full bail application) or Form 2B (limited bail application) and Form 5A (Appendix E). Forms are to be completed in PDF format, filed with the Court and served on the Prosecution via e-mail at the earliest opportunity.
- 4.3 The Prosecution shall, within two days of receipt of the application, provide the Court and the defendant an estimate of how long their enquiries are likely to take in relation to the individual proposed as surety. The Court will fix a hearing date and will give directions for filing and service of either Form 1A or Form 2B (as appropriate) and Form 4B in PDF format by the Prosecution. The hearing shall be attended by the parties and the surety.
- 4.4 Where a defendant wishes the application to be heard before the next scheduled hearing, the Greffier will fix a hearing as soon as practicable and notify the parties.
- 4.5 The Court will consider the suitability of the proposed surety under Article 12(3) of the Bail Law. If the surety is approved, the Court will fix the sum by which the surety is bound. The surety must attend the hearing and confirm to the Court that their legal responsibilities are understood and agreed.

5 Appeal against grant of bail

- 5.1 Where bail is granted after it has been opposed by the Prosecution, there is a right of appeal under Article 15 of the Bail Law. The Prosecution shall:
- a) give oral notice of appeal to the Court at the conclusion of the proceedings in which bail has been granted and before the defendant is released from custody; and

- b) complete a written Notice of Appeal (Form 6, Appendix F) and serve it on the Magistrate and on the defendant within 2 hours of the conclusion of the proceedings.
- 5.2 The Greffier will notify the Royal Court of a potential appeal as soon as oral notice has been given and will submit the written notice from the Prosecution when received.
- 5.3 The appeal will be heard by the Royal Court at the earliest opportunity. The Court will remand the defendant in custody until the appeal is determined or otherwise disposed of.
- 5.4 If the Prosecution fails to serve written notice on the Magistrate and on the defendant within the prescribed time limit, the appeal shall be deemed to have been disposed of and the defendant will be released on bail as previously directed.

Appendix A

Prosecution Position on Bail



Magistrate's Court of Jersey

FORM 1A : PROSECUTION POSITION ON BAIL	
AG v	
CASE DETAILS	
Prosecutor	
Defence Advocate	
PROSECUTION POSITION	
1. Is bail opposed? Yes <input type="checkbox"/> No <input type="checkbox"/>	
2. If bail is opposed, what exceptions are relied upon by the Prosecution? Pursuant to Schedule 1 Paragraph 1 of the Bail Law, there is a substantial risk that the Defendant would: <div style="margin-left: 40px;"> a) Fail to surrender to custody <input type="checkbox"/> b) Commit an offence on bail <input type="checkbox"/> c) Interfere with witnesses / obstruct justice <input type="checkbox"/> </div>	
The Prosecution submits the following support the risks above	
• Nature and seriousness of offence or default	<input type="checkbox"/>
• The Defendant's character and antecedents, associations, and community ties	<input type="checkbox"/>
• The Defendant's previous history of complying with bail	<input type="checkbox"/>
• The strength of the evidence against the Defendant (other than where the case is adjourned for inquiries or a report)	<input type="checkbox"/>

<ul style="list-style-type: none"> The risk that the Defendant may engage in conduct that would, or would be likely to, cause physical or mental harm to any person other than the Defendant 	<input type="checkbox"/>
<ul style="list-style-type: none"> Other relevant considerations 	<input type="checkbox"/>
Pursuant to Schedule 1 at paragraphs 2 – 6 of the Bail Law, the Prosecution submits that bail should be denied	
Para 2. For the Defendant's own protection or welfare (welfare - in the case of under 18s only)	<input type="checkbox"/>
Para 3. To facilitate the obtaining of information relevant to bail	<input type="checkbox"/>
Para 4. So that necessary inquiries can be made, or a necessary report can be prepared	<input type="checkbox"/>
Para 5. Because the Defendant is convicted of an offence punishable with imprisonment and is awaiting sentence	<input type="checkbox"/>
Para 6. Because the Defendant is in custody serving sentence of imprisonment	<input type="checkbox"/>
3. <u>Bail conditions</u>	
If you consider that bail conditions may address the above risks, what bail conditions do you propose?	
1. Residence at	<input type="checkbox"/>
2. Curfew between p.m. and a.m.	<input type="checkbox"/>
3. Report to Police Headquarters every.....	<input type="checkbox"/>
4. Not enter any licensed premises except shops that sell food	<input type="checkbox"/>
5. Not purchase and/or consume any alcohol	<input type="checkbox"/>
6. No contact, direct or indirect, with:	<input type="checkbox"/>

7. Not leave the Island or attempt to leave the Island without the Court's permission	<input type="checkbox"/>
8. Surrender passport/driving licence/other photographic identity	<input type="checkbox"/>
9. Not apply for any such passport/driving licence/other	<input type="checkbox"/>
10. Not drive or ride any motor vehicle	<input type="checkbox"/>
11. Not own, possess, or use any device capable of accessing the internet	<input type="checkbox"/>
12. Not have contact with any child under the age of 16 years unless that child is accompanied by a responsible adult	<input type="checkbox"/>
13. Wear an electronic monitoring device and comply with all instructions	<input type="checkbox"/>
14. Other	<input type="checkbox"/>
<p>Signed:..... (Prosecutor)</p> <p>Date:.....</p>	



Magistrate's Court of Jersey

FORM 1B : BAIL APPLICATION	
CASE DETAILS	
Full name of Defendant	
Defence Advocate	
Contact details of Defendant if not represented	<div>Mobile phone number</div> <div>E-mail address</div> <div>Current address</div> <div>.....</div> <div>.....</div>
<u>Offence(s)</u> <div style="height: 40px;"></div>	
Date of next hearing	
Court bail history (if applicable) – Give brief details of <u>each</u> relevant previous bail decision by the Court (including the date(s)). <div style="height: 100px;"></div>	

Proposed bail condition(s)	
1. Live at the following address.....	<input type="checkbox"/>
2. Curfew between p.m. and a.m.	<input type="checkbox"/>
3. Report to Police Headquarters, La Route du Fort, St Helier every.....	<input type="checkbox"/>
4. Not enter any licensed premises except shops that sell food	<input type="checkbox"/>
5. Not purchase and/or consume any alcohol	<input type="checkbox"/>
6. Not have any contact, direct or indirect, with	<input type="checkbox"/>
7. Not go to/within/enter	<input type="checkbox"/>
8. Not leave the Island or attempt to leave the Island without the Court's permission	<input type="checkbox"/>
9. Surrender my passport/driving licence/other photographic identity document to the Viscount	<input type="checkbox"/>
10. Not drive or ride any motor vehicle	<input type="checkbox"/>
11. Not have contact with any child under the age of 16 years unless that child is accompanied by a responsible adult	<input type="checkbox"/>
12. Other	<input type="checkbox"/>
Proposed Bail Address (a) Address of Property (b) Owner (c) Contact details (d) Names of other person(s) residing at the property	
Signed:..... (Defendant / Advocate) Date:.....	

Appendix B

Limited Bail Application



Magistrate's Court of Jersey

FORM 2A : LIMITED BAIL APPLICATION	
CASE DETAILS	
Full name of Defendant	
Defence Advocate	
Contact details of Defendant if not represented	Mobile phone number E-mail address Current address
<u>Offence(s)</u>	
Date of next hearing	
Court bail history	
Date of last bail application:	

Matters not previously heard by the Court. <i>What do you say has changed between the last bail application and this one? How is this relevant to the grounds on which bail was previously refused?</i>	
Legal arguments not previously heard by the Court. <i>What legal arguments which have not been before the Court do you want to bring to the attention of the Court? How are these relevant to the grounds on which bail was previously refused?</i>	
Proposed bail condition(s)	
1. Live at the following address.....	<input type="checkbox"/>
2. Curfew between p.m. and a.m.	<input type="checkbox"/>
3. Report to Police Headquarters, La Route du Fort, St Helier every.....	<input type="checkbox"/>
4. Not enter any licensed premises except shops that sell food	<input type="checkbox"/>
5. Not purchase and/or consume any alcohol	<input type="checkbox"/>
6. Not have any contact, direct or indirect, with	<input type="checkbox"/>
7. Not go to/within/enter	<input type="checkbox"/>
8. Not leave the Island or attempt to leave the Island without the Court's permission	<input type="checkbox"/>
9. Surrender my passport/driving licence/other photographic identity document to the Viscount	<input type="checkbox"/>
10. Not drive or ride any motor vehicle	<input type="checkbox"/>
11. Not have contact with any child under the age of 16 years unless that child is accompanied by a responsible adult	<input type="checkbox"/>
12. Other	<input type="checkbox"/>

Residence details – if different from previous proposed bail address

Address:

Owner.....

Contact details of owner

Names of other person(s) residing at the property

.....

Signed:..... (**Defendant / Advocate**)

Date:.....



Magistrate's Court of Jersey

FORM 2B : RESPONSE TO LIMITED BAIL APPLICATION

AG v

CASE DETAILS

Prosecutor

Defence Advocate.....

Has the Prosecution changed its position from that stated in Form 1A, and if so, how?

Yes ☐

No ☐

Signed:..... (Prosecutor)

Date:.....

Appendix C

Application to vary bail conditions



Magistrate's Court of Jersey

FORM 3A : APPLICATION TO VARY BAIL CONDITIONS	
CASE DETAILS	
Prosecutor	
Full name of Defendant	
Defence Advocate	
Contact details of Defendant if not represented	<div>Mobile phone number</div> <div>E-mail address</div> <div>Current address</div> <div>.....</div> <div>.....</div>
<u>Offence(s)</u>	
Date of next hearing	
Court bail history (if applicable) – Give brief details of <u>each</u> relevant previous bail decision by the Court (including the date(s)).	

1. Reasons for this application.

(a) What bail condition(s) are you seeking to vary?

(b) Why are you seeking to vary the bail condition(s)?

(c) What assurance(s) can be provided to the Court that this variation will not raise a risk of failure to surrender to custody, or commission of an offence on bail, or interference with witnesses / obstruction of justice?

2. Proposed condition(s) of bail.

1. Residence at	<input type="checkbox"/>
2. Curfew between the hours of p.m. and a.m.	<input type="checkbox"/>
3. Report to Police Headquarters every.....	<input type="checkbox"/>
4. Not enter any licensed premises except shops that sell food	<input type="checkbox"/>
5. Not purchase and/or consume any alcohol	<input type="checkbox"/>
6. No contact, direct or indirect, with:	<input type="checkbox"/>
7. Not leave the Island or attempt to leave the Island without the Court's permission	<input type="checkbox"/>

8. Surrender passport/driving licence/other photographic identity	<input type="checkbox"/>
9. Not apply for any such passport/driving licence/other	<input type="checkbox"/>
10. Not drive or ride any motor vehicle	<input type="checkbox"/>
11. Not own, possess, or use any device capable of accessing the internet	<input type="checkbox"/>
12. Not have contact with any child under the age of 16 years unless that child is accompanied by a responsible adult	<input type="checkbox"/>
13. Wear an electronic monitoring device and comply with all instructions	<input type="checkbox"/>
14. Other	<input type="checkbox"/>

3. I wish the Court to decide this application:

At a hearing ☐

On the papers ☐

The Court may determine an application to vary a bail condition without a hearing if the parties agree.

Signed:..... (**Applicant / Advocate**)

Date:.....



Magistrate's Court of Jersey

FORM 3B : RESPONSE TO APPLICATION TO VARY BAIL CONDITIONS	
CASE DETAILS	
Prosecutor	
Full name of Defendant	
Defence Advocate.....	
Contact details of Defendant if not represented	Mobile phone number
	E-mail address
	Current address

If the application to vary bail is opposed, set out your reasons:	

I wish the Court to decide this application:

At a hearing ☐

On the papers ☐

The Court may determine an application to vary a bail condition without a hearing if the parties agree.

Signed:..... **Respondent**

Date:.....

Appendix D

Proposal for Security



Magistrate's Court of Jersey

FORM 4A : SECURITY PROPOSAL
CASE DETAILS
Prosecutor
Full name of Defendant
Defence Advocate
1. What amount of security do you propose? £.....
1. Who do you propose pay this amount? <i>If a third party please provide their: name; contact details; and connection with you.</i>
2. What is the source of the funds?
4. Where are the funds currently held?
Signed:(Defendant or Advocate)
Date:



Magistrate's Court of Jersey

FORM 4B : RESPONSE TO SECURITY PROPOSAL
CASE DETAILS
Prosecutor
Full name of Defendant
Defence Advocate
If the Security is opposed set out your reasons:
Signed:(Prosecutor) Date:

Appendix E

Proposal for Surety



Magistrate's Court of Jersey

FORM 5A : SURETY PROPOSAL	
CASE DETAILS	
Prosecutor	
Full name of Defendant	
Defence Advocate	
Details of Surety proposed	
1. Full name	
2. Date of birth	
3. Address	Post Code:
4. Contact details	Mobile phone E-mail

5. Connection of the Surety with you	
6. Amount proposed	£.....
7. Where are the funds currently held?	
8. What is the source of the funds?	
9. What connections does the proposed Surety have to Jersey?	
<p>Signed:(Defendant/Advocate)</p> <p>Date:</p>	



Magistrate's Court of Jersey

FORM 5B : RESPONSE TO SURETY PROPOSAL	
CASE DETAILS	
Prosecution	
Full name of Defendant	
Defence Advocate	
1. Is the Surety opposed?	Yes <input type="checkbox"/> No <input type="checkbox"/>
2. What enquiries were made in relation to the suitability of the Surety?	
3. What was the outcome of the enquiries?	

4. What are the reasons for opposing the Surety?

Signed:(Prosecutor)

Date:

Appendix F

Appeal against Magistrate's grant of bail

Signed:..... Prosecutor Date:.....
COURT USE ONLY Received by the Greffier athours. Signed Greffier Substitute Date