



JUDICIARY OF
ENGLAND AND WALES

THE LANCASHIRE CROWN COURTS

LOCAL PRACTICE DIRECTION 1/2022:

- (1) APPLICATIONS TO EXTEND TIME**
- (2) STANDARD DIRECTIONS FOR SPECIAL MEASURES AND WITNESS SUMMONS APPLICATIONS**
- (3) STANDARD DIRECTION WHERE A DEFENCE STATEMENT IS NOT SERVED**
- (4) STANDARD FORMAT FOR CERTAIN APPLICATIONS**
- (5) REQUIREMENT TO INFORM THE COURT IF AN ADVOCATE IS TO ATTEND REMOTELY**

Purpose

The aim of this document is to give guidance to court-users on new arrangements we have now introduced to regulate:

- applications to extend time and certain administrative applications and other applications;
- a Standard Direction for the Crown where the Defence fail to serve a Defence Statement at Stage 2;
- the format of certain applications;
- a requirement to inform the Court if an advocate is to attend remotely.

Applications to extend time and certain administrative applications and other applications

I aim to cut down the number of administrative applications which are sent to the court. The emphasis will be on the parties agreeing most variations where they can and, where this is in accordance with the CPR, dealing with applications at already scheduled hearings.

The shift is very much towards trusting the professionals to act responsibly. This is a step which I feel can be taken because, in the vast majority of cases, Counsel and Solicitors work hard to ensure that cases are properly managed.

I remind practitioners of the terms of The Criminal Procedure Rules and in particular CPR Part 3 – Case Management:

- Each party must assist the court in fulfilling its duty under rule 3.2, to further the overriding objective by actively managing the case.

[Part 3.3 (1)]

- Active case management includes monitoring the progress of the case and compliance with directions. [Part 3.2 (2) (d)]
- In certain circumstances the parties may agree to vary a time limit fixed by a direction, but only if the court has not prohibited variation by agreement. [3.7 (1)]

A Standard Direction for the Crown where the Defence fail to serve a Defence Statement at Stage 2

This is intended to ensure that the trial issues are known as soon as possible and identify those cases where the Defendant has disengaged.

The format of certain applications

This is intended to ensure that such written applications are more compatible with the Court's systems.

Requirement to inform the Court if an advocate is to attend remotely

The system set out in LPD4/2021 in relation to remote attendance at court is working well. This system whereby advocates can, in certain types of case, attend remotely without application is something I hope to keep in the long term. The vast majority of advocates (with a handful of exceptions) use this system responsibly.

However, I am going to add a requirement that, if an advocate intends to appear remotely (either because an application has been granted for them to do so or because it is a hearing which does not require an application) the advocate must insert a widely shared note by 18:00 the day before the hearing. This is to assist the Court Clerk in the smooth running of the Court. For the avoidance of any doubt, this does not alter the rules as to when an advocate may appear remotely. It simply adds an additional (and necessary) step which the advocate must take.

THE DIRECTIONS

These directions will come into force on 28th March 2022

1) The Making of Administrative and other applications

(Agreeing variations in Court Orders)

Until further notice, parties may agree to vary certain time limits fixed by directions without the need for involvement by the court. This only applies to time limits where the variation:

- Has not been prohibited by the Court; and

- Where the variation will not affect the date of any hearing that has been fixed (be that dismissal, sentence or trial that has been fixed) or significantly affect the progress of the case in any other way.

Application to the court for a further direction in such cases will only be necessary if no agreement can be reached. However, in seeking and/or agreeing a variation, the parties must do the following:

- a. The party seeking the variation, after communicating with the other party(ies) must put a widely shared comment to this effect on DCS, setting out in brief the reasons for the proposed variation (e.g. difficulty in arranging a legal visit with a Defendant in custody).

Separate notification to the court of the application is not required.

- b. If there is agreement to a variation, the terms of the agreement must be set out in a further widely shared comment on DCS. (NB: If, for example, a stage date is altered, the parties must give consideration to re-setting any other stage dates.)

Where such agreement is reached the Court must be notified by an email to caseprogression.preston.crowncourt@justice.gov.uk

If there is any doubt as to whether this is a matter which is eligible for variation by agreement and/or as to the potential effect of any proposed variation, then an application should be made to the court for a further direction.

For the avoidance of doubt, the types of situation in which the parties may agree a variation to a time limit previously set by the court include the following:

- c. Alteration of BCM Stage dates, including resetting of future Stage dates apart from alteration of the date for service of the Defence Statement;
- d. Alteration to dates for service of statements in connection with POCA applications, including resetting the timetable (but not the date fixed for any hearing). [NB: The parties cannot agree to vary the time for payment of any confiscation order, or a redetermination of the available amount.];
- e. Alteration of any other date fixed for the service of a document or the completion of a procedural step prior to a hearing. [NB: The parties cannot agree to vary the date for service of a Certificate of Readiness for Trial]

If the parties cannot agree a variation of a time limit fixed by a direction, an application must be made to the court for the case to be listed to mention, when further directions will be given. It is principally the responsibility of the party seeking the variation to make the application though, if necessary, any party should do so in order to assist the court actively to manage the case. It is not necessary for the Defendant to attend such a mention hearing and the parties may attend remotely by video link.

2) Standard Directions for certain applications

Applications for Special Measures Directions or Witness Summonses must be made at the PTPH or PTR unless:

- there is particular urgency (the nature of which must be specified in the written application); or
- the application is being made after the PTR for the case¹ (in which case the reason for the delay in making the application must be set out in the application); or
- there is some other good reason for making the application administratively (that reason must be specified on the application)

In relation to Special Measures and Witness Summons applications the Applicant must indicate if they wish the application to be dealt with other than at the PTPH or PTR and, if so, explain why. The default position will be that, unless the Applicant asks for the matter to be dealt with administratively and gives a good reason for doing so, the form will simply be uploaded to section Q on the DCS and the Applicant must ensure that the application is brought to the attention of the Judge at the PTPH or PTR.

3) Standard Directions where a Defence Statement is not served

Where a Defence Statement has not been served by Stage 3 the Crown must apply to the court for the case to be listed for mention with the Defendant to attend.

4) Standard Format for certain applications

Applications for SHPO's, Restraining Orders and orders for Forfeiture and/or Destruction Orders are must be made on a Word document in numbered paragraphs to assist the resulting clerk to transfer the details to the final Order.

Applications For Forfeiture and/or Destruction must be uploaded as a word document.

5) Requirement to inform the Court if an advocate is to attend by CVP

If an advocate intends to appear at a hearing remotely (either because an application has been granted for them to do so or because it is a hearing which does not require an application) the advocate must insert a widely shared note on the DCS by 18:00 the working day before the hearing. For the avoidance of any doubt, **this does not alter the rules as to when an advocate may appear remotely.** It simply adds an additional (and necessary) step which the advocate must take.

¹ Note that all cases should have a PTR listed before trial under the TARH arrangements. The intention is that such applications should be made at that PTR unless there is a good reason for this not to happen.

HHJ Altham

22nd March 2022

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