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PRACTICE DIRECTION NO 2 OF 2003

Criminal Trials on Indictment: Plea and Directions Hearings

I am directed by the Bailiff to issue the following direction, which has immediate effect.

These Rules establish Plea and Directions Hearings (PDHs) in the Royal Court and will apply to all cases.

At the PDH, pleas will be taken and, in contested cases, prosecution and defence will be expected to assist the judge in identifying the key issues, and to provide any additional information required for the proper listing of the case.

1. In every case, once the magistrate's court has indicated that it intends to commit the case to the Royal Court it shall seek from the defendant, during the course of the committal proceedings, an indication as to his likely plea. It shall also seek, and at the same time, an indication from the defendant concerning the prosecution witnesses whose evidence is likely to be accepted without the need to give oral evidence. Neither indication will be binding upon the defendant and is required only to facilitate future management of the case. Once those indications have been received the court should then commit the defendant to appear in the Royal Court on a specific date for an initial plea and directions hearing (PDH).

2. The purpose of the PDH will be to ensure that all necessary steps have been taken in preparation for trial and to provide sufficient information for a trial date to be arranged. It is expected that the advocate briefed in the case will appear in the PDH wherever practicable.

3. At least 14 days' notice of the PDH shall be given unless the parties agree to shorter notice. The PDH should be within six weeks of committal in cases where the defendant is on bail, and four weeks where the defendant is in custody.

Preparation for the PDH

4. Irrespective of the indication of plea given at the committal hearing, where the defendant intends to plead guilty to all of the indictment the defence must notify in writing the probation service, the prosecution and the court, as soon as this is confirmed by instructions. If an indication is given at committal that the plea is to be not guilty to all or part of the indictment, and that plea is to be maintained, the defence must provide in writing to the prosecution a full list of the prosecution witnesses who are required to attend at the trial. This list must be provided at least 7 days prior to the PDH or within three working days of the notice of the hearing where the PDH is fixed less than 17 days ahead.

5. Where a not guilty plea to all or part of the indictment has been indicated, a case summary should be prepared by the prosecution for use by the judge at the PDH. The form of the summary will depend on the circumstances of the case and any prior indication of plea but should be drafted to assist the judge by indicating the nature of the case, and focusing on the issues of fact and/or law likely to be involved. The summary should also assist the judge in estimating the trial length.

Form of hearing

6. The PDH should normally be held, and orders made, in open court and all defendants should be present (except with the leave of the court).

Conduct of the hearing

7. At the PDH the pleas will normally be taken.

8. If the defendant pleads guilty, the matter will be adjourned for further reports (if any) to be prepared and a date to be fixed for appearance before the Full Court.

9. Following a not guilty plea, and where part or alternative pleas have not been accepted, the prosecution and defence will be expected to inform the Court of:

- (a) the issues in the case;

- (b) issues, if any, as to the mental or medical condition of any defendant or witness;
- (c) the number of witnesses whose evidence will be placed before the Court either orally or in writing;
- (d) the defence witnesses in (c) above whose statements have been served and whose evidence the prosecution will agree and accept in writing;
- (e) any additional witnesses who may be called by the prosecution and the evidence that they are expected to give;
- (f) facts which are to be admitted and which can be reduced into writing in accordance with section 2 of the Administration of Justice (Bailiwick of Guernsey) Law, 1991, within such time as may be directed at the hearing, and of the witnesses whose attendance will not be required at trial;
- (g) exhibits and schedules which are to be admitted;
- (h) the order and pagination of the papers to be used by the prosecution at the trial;
- (i) any point of law which it is anticipated will arise at trial, any questions as to the admissibility of evidence which appear on the face of the papers, and of any authority on which the party intends to rely;
- (j) any applications to be made for evidence to be given through live television links by child witnesses;
- (k) any applications to submit pre-recorded interviews with a child witness as evidence in chief;
- (l) any applications for screens, for use by witnesses seeking a visual break between themselves and any relevant parties; whether any video, tape recorder or other technical equipment will be required during a trial; where tape recorded interviews have taken place, of any dispute or agreement as to the accuracy of any transcript or summary;
- (m) any other significant matter which might affect the proper and convenient trial of the case, and whether any additional work needs to be done by the parties;
- (n) the estimated length of the trial, to be agreed more precisely taking account of any views expressed by the judge and the other parties;
- (o) witness availability and the approximate length of witness evidence so that attendance can be staggered during lengthy trials, agreeing likely dates and

times of attendance, taking into consideration real hardship and inconvenience to a witness where applicable;

- (p) availability of advocate;
- (q) whether there is a need for any further directions.

10. The judge may make such order or orders as lie within his or her powers as appear to be necessary to secure the proper and efficient trial of the case. Each party shall, at least 14 days before the date of trial, confirm to the court at a further directions hearing that all such orders have been fully complied with and what issues, if any, still remain unresolved.

11. The questionnaire annexed to these rules provides a recommended structure for use by the judiciary in conducting a PDH. A single copy of the questionnaire, completed as far as possible with the agreement of both advocates, is to be handed in to the court prior to the commencement of the PDH.

12. The defence shall apply to the court for the case to be listed for mention if they are unable to obtain instructions from the defendant. If the defendant fails to attend court, the judge will wish to consider whether a warrant of arrest should be issued.

K. H. Tough

Her Majesty's Greffier

IN THE ROYAL COURT OF GUERNSEY
QUESTIONNAIRE FOR PLEA AND DIRECTIONS HEARING

CASE DETAILS (One form to be completed for each defendant)

Law Officers of the Crown v.

Greffe Case Reference Number:

Date of Committal:

Name of Prosecution Advocate:

Name of Defence Advocate:

FOR COMPLETION BY THE ADVOCATES – this questionnaire, completed as far as possible with the agreement of both advocates where a not guilty plea is indicated, is to be handed in to the court prior to the commencement of the Plea and Directions Hearing. It is the responsibility of defence counsel to initially complete the form to the best of his/her ability and to then forward it to the prosecution at least three working days prior to the date fixed for the PDH.

1. a. *Are the actual/proposed not guilty pleas definitely to be maintained through to jury trial?*

b. *Will the prosecution accept part guilty or alternative pleas?*

2. *How long is the trial likely to take?*

3. a. *Are there Human Rights issues to be relied upon?*

b. *What are the other issues in the case?*

4. *Are there any issues concerning the mental or medical condition of any defendant or witness?*

5. Prosecution Witnesses

a. To be called:

b. To be read:

NB Defence counsel must notify the prosecution as soon as possible of any editing to statements it would propose that could avoid a witness having to give oral evidence

c. Is the prosecution likely to be serving additional evidence?

d. What area(s) will it cover?

Defence Witnesses

a. Is it proposed that the defendant will give evidence?

b. Likely number of other defence witnesses

c. Any whose statements have been served which can be agreed and accepted in writing?

Admitted facts

a. Are there any facts that can be agreed under Section 2 Administration of Justice (Bailiwick of Guernsey) Law, 1991? If so, what are they?

6. Exhibits and Schedules to be admitted:

7. Any points of law likely to arise at trial?

8. *Any questions of admissibility of evidence (together with any authorities)?*

9. *Any applications pending/intended for:*

- a. Use of screens*
 - b. Use of video equipment*
 - b. Use of tape playback equipment*
-

10. *Any other significant matter that might affect the proper and convenient trial of the case? (eg availability of expert evidence or witnesses or other outstanding cases against the defendant)*

11. *Any other work that needs to be done by:*

- a. Prosecution*
 - b. Defence*
-

12. *Witness availability problems:*

- a. Prosecution*
 - b. Defence*
-

13. *Can witness availability be staggered?*

14. *Advocates non-availability:*

- a. Prosecution*

b. Defence

15. Any other issues not covered by any of the above?

FOR COMPLETION BY THE COURT

Case listing arrangements

Fixed for trial on:

Further directions fixed for:

Other directions, orders or comments:

Signed:

Date: