

IN THE SUPREME COURT
OF TURKS AND CAICOS ISLANDS

PRACTICE DIRECTION NO 1 OF 2009

Made on 18 December 2009

Pre-trial Directions Hearings in Criminal Cases

When criminal trials are listed in the Supreme Court for a Plea and Directions hearing (PDH), the attorneys on both sides are expected to fill in as much as is reasonably possible of the pro forma questionnaire which Gardiner CJ issued.

The prosecution has generally been conscientious about filling in the form and, when that is done, there is little the defence need or can be expected to do except to ensure that sufficient instructions have been received to give proper advice as to the plea to be entered and, if the matter is contested, to give a realistic indication of the expected length of trial including an indication of whether there is to be a trial on the voir dire, none of which requires the whole questionnaire to be used.

The present backlog of cases means that the first trial date is likely to be some months away. In order to prevent, as much as possible, the late breaking of fixtures, all criminal trials will be listed for a short pre-trial directions hearing approximately two or three weeks before the trial date.

In future, the date of the pre-trial directions will be fixed at the PDH. At that hearing, the Court will expect to be given accurate up to date information about the following matters:

1. From the prosecution:
 - (a) The availability of the prosecution witnesses. In the case of expert witnesses and/or witnesses from abroad, the Court must be advised of the date(s) they were warned, the means of communication used and any responses received.
 - (b) The names of any witnesses whose evidence the prosecution intends to read at the trial and the date on which the statement was served on the defence.
 - (c) Any witnesses on the indictment or subject of notices of further evidence who the prosecution no longer intend to call and the date on which the defence was so advised.
 - (d) Where the accused is on bail, any failures to comply with the terms of his bail and, if so, the steps taken to deal with any such breaches.
2. From the defence:
 - (a) The last time the attorney was in contact with his client.
 - (b) Any difficulty with potential witnesses and any witness summons needed.
 - (c) Any objection to the matters disclosed by the prosecution under 1(b) and (c) above.
3. From both counsel:
 - (a) Any legal submissions to be raised before the jury is put in charge.
 - (b) Any change from the original estimate of the probable length of trial
 - (c) Any formal admissions by either side
 - (d) Any other matter which might affect the course of the trial subject to the normal right of the defence to decline to disclose.

I appreciate it is often difficult for counsel to attend such hearings. However, it is essential that the Court is given correct information on these topics. If counsel has to brief another attorney to attend on his

behalf, he will be responsible for ensuring his representative is sufficiently briefed to supply all the above information and answer any further questions the Court may reasonably be expected to ask.

If, in legally aided cases, the defence attorney is inadequately prepared at the PDH or pre-trial directions hearing or has failed adequately to instruct an alternative representative, payment for that hearing will be withheld.

If it becomes apparent, during the period between the PDH and the pre-trial directions hearing, that either the prosecution or the defence will be seeking an adjournment of the trial, an application to break the fixture, backed up with full reasons, should be made in a timely manner rather than waiting to do so at the pre-trial directions hearing.



Gordon Ward
Chief Justice