The Rules Committee

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20 June 2014
Criminal Rules Minutes 03/14

Circular 44 of 2014

**Minutes of the Criminal Rules Sub-Committee meeting held on 20 June 2014**

The meeting was held at the High Court, Wellington, on Friday 20 June at 9 am.

## 1. Preliminary

*In Attendance*

Hon Justice Winkelmann, Chief High Court Judge (by AVL)
Hon Justice Ronald Young, Chair
Hon Justice Simon France
His Honour Judge Davidson
Mr David Jones QC (by AVL)
Ms Lynn Hughes (by AVL)
Ms Megan Anderson

Mr Sean Conway, Minute Taker

*Apologies*

Mr Mark Harborow

Mr Matt Dodd, Clerk

## 2. Minutes

The Sub-Committee confirmed the minutes of the 7 April 2014 meeting.

## 3. Matters arising from 7 April 2014 meeting

### (a) Action point 4(b): Status of sexual violation under Protocol

Young J: France J's minute has been circulated to the Crown network and defence bar. Young J was not at the Criminal Practice Committee meeting but understood the minute was to be mentioned.

**(b) Action point 4(c): Time requirement for Crown notices**

It was proposed at the last meeting that reg 6 of the Crown Prosecution Regulations 2013 should be referenced in r 4.12.

France J: could simply incorporate content of reg 6 into r 4.12 instead. Megan Anderson: may be issue if reg 6 is amended. Possibly violates PCO conventions. Usually possible to set "flag" so that when the Regulations are amended, MoJ could inform the Sub-Committee that the Rules need to be updated too. Winkelmann J: rules are educational, better to incorporate content to reduce number of "hops" required to find information.

*Agreed: incorporation of the text is superior to referencing.*
*Action: Megan Anderson to check PCO conventions and ability to "flag" amendments when they are made.*

**(c) Action point 7(b): draft r 6 (summary of facts in CMM)**

*Action: proceed with amendment.*

**(d) Action point 7(c): draft r 5 (service of documents)**

Young J: referred proposal to MoJ. Megan Anderson: advised court staff that MoJ's interpretation of r 2.8 is that it already allows a person to be approved to serve documents generally. Young J: appears some staff have not followed that instruction. Megan Anderson: reiterating advice to staff could be a solution.

*Agreed: preferable to press ahead with amendment to r 2.8.*
*Action: proceed with amendment.*

**(e) Action point 11: publicity**

Young J: has written to the Law Society regarding members of the Sub-Committee attending seminars where possible.

**(f) Action point 12(b): funding for additional member**

Megan Anderson: funding for expenses of additional member unresolved until budgets finalised.

*Action: Megan Anderson to update the Sub-Committee on funding at the next meeting*.

**(g) Action point 12(d): nominated persons for feedback at Criminal Bar Association and Law Society**

Young J: Superintendent Tweedie has agreed to organise feedback on behalf of the PPS and pass it on to the Sub-Committee. The CBA and Law Society have replied asking for representation on the Sub-Committee. Sub-Committee membership was intended to include a broad spectrum of people involved in criminal law but was not intended to be representative. David Jones QC: may be beneficial to have a formal member of the CBA on the Sub-Committee to encourage quality feedback. Often the CBA does not respond to letters and emails. Young J: we should identify a person who can canvas defence bar and aggregate feedback. France J: membership is big enough already. Sub-Committee is not representative but "nitty gritty" working committee. Judge Davidson: Sub-Committee workload is expected to decrease after "fishhooks"

worked through. Can engage with the CBA and Law Society through email and by requesting attendance on a one-off basis.

*Action: France J to write to the CBA and Law Society declining requests and advising that Sub-Committee not intended to be representative but very keen to receive feedback. Letter to reiterate request for both organisations to nominate a person to aggregate feedback.*

**(h) Action point 13(a): website**

Winkelmann J: a separate page has been created for the Sub-Committee on the Courts of New Zealand website. Judge Davidson: the Crown Prosecution Regulations and Protocol are now linked to in eLibs intranet for ease of access.

**4. Incorporation of practice notes into the Rules**

The Sub-Committee categorised practice notes into those that could be cancelled entirely, those that could have portions converted to rules, those that should be referred to the Supreme Court and those that should be retained.

**(a) Sentencing HCPN 2014/1**

*Action: Convert to rules.*

**(b) Draft practice note – interpreting in criminal proceedings**

*Action: Convert to rules.*

**(c) PN1 – use of hypothetical questions in cross-examination**

*Action: Cancel.*

**(d) PN2 – notes of evidence – official record**

Young J: ordinarily the notes of evidence are the Judge's. The Judge is responsible for ensuring the accuracy of the notes for appeal. If the notes become an official record of the evidence that would put them in the same category as charging documents etc. Who would be responsible for certifying a particular copy? Winkelmann J: formerly, the notes of evidence were typed and there was an official copy that the Judge could amend by hand. Now the notes exist digitally. Sometimes there is an issue as to which version of the evidence should be the record for an appeal. David Jones: in 1991 when the practice note was drafted, the simultaneously-typed transcript was the best available record. The practice note was aimed at ensuring accuracy, rather than access to the notes of evidence. Now the digital recording is the best available record of what was said, accuracy is not such an issue. The notes are simply an interpretation of the digital recording.

Young J: could simply cancel practice note and not replace it. Winkelmann J: note could be replaced with a rule that says the notes of evidence are under the control of the Judge. France J: should make it clear that notes of evidence are not part of the court record. The notes are not always checked, and creating a rule may create obligations disproportionate to the percentage of cases that are actually appealed. Important to keep access to the notes of evidence on the agenda to be worked through in a considered way over time.

*Agreed: notes of evidence should not be part of the court record.*

*Action: cancel Practice Note 2 and do not draft a rule to replace. Keep issue of access to notes of evidence and their accuracy on the agenda. Matt Dodd to research the position in England and Australia.*

**(e) PN3 – Form of indictment – particulars of sexual offending**

*Action: cancel.*

**(f) PN4 – Criminal Jury Trials Caseflow Management High Court**

*Action: cancel.*

**(g) PN5 – High Court Bail Applications and Appeals**

*Action: cancel.*

**(h) PN6 – Sexual offences involving child complainants and child defendants**

*Action: cancel.*

**(i) PN7 – Sentencing**

*Action: cancel.*

**(j) PN8 – Criminal appeals**

Young J: this is a notice of revocation. Cancelling a notice of revocation would not revive the original cancelled practice note. But how should we cancel the practice notes, including existing notices of revocation? France J: a single combined revocation notice signed by the Heads of Bench would be sufficient.

*Agreed: cancellation does not reverse existing notice of revocation. Practice notes should be cancelled as per France J's suggestion.*
*Action: cancel.*

**(k) PN9 – Bail practice note**

Lynn Hughes: requirement for police to provide written opposition using "Opposition to Bail" form is very helpful for defence. Judge Davidson: it is very rare for opposition to bail not to be provided in writing. Lynn Hughes: Police do invariably file written opposition. Young J: given that the status quo appears to be working, it may be better to do nothing, but monitor the issue. The Bar Association and Law Society could publicise that the provision of written opposition to bail is part of the required police process.

*Action: cancel.*

**(l) PN10 – Civil caseflow management in High Court appeals from the District Court**

Young J: same issue as PN8. France J: Solution could be to place a note along the lines of the following at the end of the combined notice of revocation: "for the avoidance of doubt, revocation of these revocations does not revive the original practice notes in question".

*Action: cancel.*

**(m) PN11 – High Court practice note – Criminal Appeals to the High Court**

*Action: cancel.*

**(n) PN12 – Supreme Court (applications for leave to appeal) practice note 2003**

*Action: refer to Supreme Court.*

**(o) PN13 – practice notes on Police questioning**

*Action: retain (required by s 30(6) of the Evidence Act 2006).*

**(p) PN14 – pre-trial applications in High Court and District Court Criminal Jury cases**

*Action: cancel.*

**(q) PN15 – Practice note on District Court criminal jury trials**

*Action: cancel.*

**(r) PN16 – Supreme Court practice note – pre-trial appeals**

*Action: refer to Supreme Court.*

**(s) PN17 – practice note – Criminal procedure in the District Court**

*Action: cancel.*

**(t) PN18 – practice note on committal procedure in the Youth Court**

*Action: cancel.*

**(u) PN19 – practice note – counsel dress in District Court jury trials**

Judge Davidson: practice of robing in District Court jury trials remains unaltered. Chief District Court Judge will issue a directive or similar to replace practice note.

*Action: cancel.*

**(v) Preliminary hearings (April 2008)**

*Action: cancel.*

**(w) Practice note – domestic violence prosecutions**

Judge Davidson: Judge Walker advises that this is on the agenda of a symposium involving the Police, Ministry of Justice and the judiciary.

*Action: retain pending review.*

**(x) Publicity, consultation and timing of cancellation**

David Jones: it could be helpful to record in the Rules the practice notes from which the new rules are derived. Young J: may be better to simply publicise in *LawTalk*.

Winkelmann J: it is important to consider communication of amendments to the rules. There is also the broader question of whether all of the amendments to the Rules should happen at the same time, as well as cancellations of the practice notes. Young J: it would be preferable for all of the changes to be made at the same time. Megan Anderson: there is a further issue as to how consultation should be arranged. Young J: we have not yet discussed with the Rules Committee how consultation should be arranged. France J: it might be better to just ring-fence the practice note cancellations. Winkelmann J: a general discussion about the Sub-Committee's work programme is necessary.

*Action: France J to instruct PCO on amendments and practice note cancellation. After PCO drafts amendments, collect all appropriate amendments and forward them to the Rules Committee. Ask the Rules Committee how consultation should be conducted.*

**5. Judge Davidson's report on s 138 and ss 190 – 192 process**

The broad intention of these sections was to allow a prosecutor to make amendments and additions to the charges faced by a defendant without leave of the Court. They are causing problems. Amendments are being made on the day before the case review hearing. Technology problems have resulted in notifications and notices being processed manually by court staff rather than electronically as envisaged. This is fine for smaller courts or courts where there are no jury trials. But in higher volume courts the time it takes court staff to process notices makes it difficult to provide the Judge and the defendant with an accurate list of the charges they face. Megan Anderson: confirmed that there is no way for information (other than charging documents) to be filed electronically with CMS.

Judge Davidson: there is a real risk someone will plead guilty to the wrong charge. France J: it is of fundamental importance that defendants know what charges they are facing and the court knows what charges it is supervising. Young J: is this a problem in Judge-alone trials where police prosecute? Judge Davidson: no, handwritten amendments on charging documents work fine in the former summary jurisdiction.

Judge Davidson: The suggestion that the Court produce a list of charges is not feasible for two reasons. First, the Court cannot cope with the volume of amendments in the time available. Second, the list of charges printed by the Court only states the nature of the charge, not its key particulars. The only solutions short of serious IT changes appear to be:

(1) a rule change to require a defendant to be advised of s 138 notifications; and

(2) a change to the period within which charges can be amended without leave to coincide with the filing of the CMM five days prior to case review.

Megan Anderson: in relation to option (2), the prosecutor could be required to file a charge list at the end of the without notice period. After the period expires, the Crown would need to seek leave to amend the charge list.

Judge Davidson: the Crown is likely to oppose the rule, probably on the basis that it does not receive the police file in sufficient time. Young J: allowing amendment as of right up until case review is an advance on what could be done previously. It would be very uncommon for the Court to refuse to allow amendment at the case review hearing. So the impact of a regulation change on the Crown would be not be great.

*Action: France J to write to the Solicitor-General explaining that this issue has been thoroughly investigated. The present situation is unworkable and dangerous. The Sub-Committee is not aware of any workarounds that would resolve the situation. The Sub-Committee proposes (1) amending the expiry of the period within which the prosecution can add/amend/withdraw charges to the same date as the CMM is to be filed (ie. five days before case review); and (2) requiring the Crown to file a list identifying each charge three days before the case review hearing. This notice needs to contain sufficient detail so that it is clear what the charges are and what amendments have been made.*

**6. Return of amended charges to the Youth Court after election of jury trial in the District Court**

Judge Davidson: this issue was referred to the Sub-Committee by Youth Court Judges as a matter of particular concern to them. Young J: while this is an important issue, it is a policy issue rather than a rules issue. It should be referred to the Ministry of Justice to consider. Megan Anderson: the issue was raised and considered during the drafting of the Criminal Procedure Act 2011. There was insufficient time before the passage of the Bill for the Ministry of Social Development and Ministry of Justice to undertake policy work.

*Action: France J to write to MoJ and MSD stating that in principle the Sub-Committee supports the concept of being able to return amended charges to the Youth Court.*

**7. Report from CMM and TCM form working group**

The Sub-Committee received a report from the working group. The issue is how to proceed and which forms to pilot.

Winkelmann J: some consultation should be undertaken prior to piloting the forms. Young J: the forms could be sent to PDS, CBA, BA, PPS, New Zealand Law Society, the Auckland District Law Society and Crown Law for feedback.

Judge Davidson: anecdotally, there is a preference in the Wellington District Court for free-text forms. Lynn Hughes: busy defence counsel are likely to prefer tick-boxes. France J: it could be possible to pilot both styles. Judge Davidson: there is a need for urgency. The choice of style is less important than ensuring that whatever document is chosen is brief, usable, engages both the defence and prosecution and will be used meaningfully. There are also a number of minor changes that need to be made to the forms before they are sent out for consultation.

Megan Anderson: there are some recommended amendments to the rules arising from the report. In addition, it would be desirable to amend the Act to remove the requirement that the parties give their views as to which Court the trial should be in. This is now dealt with by the Protocol. Young J: these issues should be addressed at the next meeting.

*Action: Judge Davidson (and any other members) to consult with Ms Anderson with regard to any possible changes to the documents. Judge Davidson to consult with a small number of District Court Judges for input. Item to remain on the agenda for the next meeting.*

**8. Feedback from Mark Harborow**

**(a) Mandatory publication of court lists online (including District Court list) and display of court lists in each courthouse**

Megan Anderson: expressed reservations about introducing a rule to this effect. If the electronic systems went down it would not be possible to comply with such a rule. Room shuffling also occurs on the day of a case. It is better to rely on 'best efforts' until technological improvements are put in place that could ensure ongoing and consistent publication.

Lynn Hughes: at the Manakau District Court there have been issues with court lists being out of date and issues with suppression. David Jones: suppression has also been an issue at the Auckland District Court. Judge Davidson: there are serious suppression risks involved with such a proposal in high volume courts.

*Agreed: a rule is not necessary to allow publication. Nor is it appropriate to create a rule requiring publication of lists at this time.*

**(b) Alignment of time for filing formal statements and Crown TCMs**

Currently formal statements must be filed 25 working days before trial callover and Crown TCMs must be filed 15 days before trial callover.

Lynn Hughes: it would be practical to align the times. Judge Davidson: proposal makes sense. But in high volume District Courts, there is an ongoing problem whereby formal statements are filed but do not go onto the file at the time of the callover. Aligning the time could potentially aggravate this problem. Megan Anderson: this is being addressed with court staff.

Young J: it is important that there be some consultation with the defence bar on this matter. David Jones: the impact of the change would be minimal. If the defence receives formal statements and Crown TCMs at the same time there will still be sufficient time to prepare before the callover.

*Agreed: it would be best to bring forward the timing for formal statements rather than back for Crown TCMs. Aligning the times would bring the rule into line with what is happening in practice.*
*Action: France J to arrange consultation with the defence bar on the proposal.*

**(c) Filing of documents by email**

Lynn Hughes: there is a problem whereby court staff are not acknowledging receipt of electronically filed documents as required by r 2.3(4). Judge Davidson: detailed protocols for clearing court email addresses appear to be honoured in the breach.

*Agreed: This is an organisational problem rather than a rules problem.*
*Action: Refer to the Ministry of Justice.*

**(d) Judicial CPA training**

*Action: Refer to the Heads of Bench.*

**(e) Amendment of r 3.3 – witness summonses**

The question is whether it is permissible to summons witnesses "on a date to be advised". France J: Can't summons a witness to attend in the abstract. Young J: rule needs to be clear as people are vulnerable to prosecution for failure to comply. However the current position whereby a person is summonsed to attend on a particular day *and* on such other dates that the court may require, seems to be working.

*Agreed: no action required.*

**(f) "Criminal Procedure Update" presentation including on the CPA from Ron Mansfield (NZ Bar Association)**

Young J set out the list of problems raised by Mr Mansfield.

*Failure to provide addresses for service*
Young J: unclear what the issue is. Presumably prosecutors will have a generic email address to send things to. Lynn Hughes: has not encountered this issue.

*Insufficient information on which to enter a plea at second appearance*
Young J: this is an area the Sub-Committee should keep monitoring. This could be resulting in pleas of not guilty being entered when they should not ordinarily be entered, if sufficient information had been made available. David Jones: some Registrars routinely refuse applications for extensions of time under r 1.7. So defendants enter a not guilty plea and elect jury trial by default because they are not ready. Megan Anderson: the Ministry has recently been working with court staff to address this issue. Staff have been directed to be more flexible with the timing of pleas and extensions of time under r 1.7 where that appears likely to resolve the case at the next appearance.

*Notices of Response*
Mr Mansfield said that where a Notice of Application is filed (for any type of Application), a Notice of Response should be filed within 10 working days. If it is not the Court may make the order applied for. But in practice parties are not filing Notices of Response. There is no form available to do so. Instead, an informal procedure is adopted whereby the Registrar will request a response by email. Judge Davidson: have not encountered this issue. Ms Anderson: the Ministry could produce a Notice of Response form and put it on the Ministry website.

*Protocol – definition of "vulnerable" complainant*
Mr Mansfield said there is the potential for different interpretation of some criteria for offences to be listed in the Protocol. For example, sexual violation is a Protocol offence where the complainant is 'vulnerable', but 'vulnerable' is not further defined. Young J: it was never intended to be defined. It is for the Judge considering the Protocol decision to decide whether a complainant is vulnerable based on the facts of the case.

*Sentence Indication hearings*

Mr Mansfield said there have been practical problems with sentence indication hearings proceeding at case review. Courts often do not have time in case review hearing lists to deal with sentence indications for more complex matters. Even if there is time, Judges are being allocated too many files and are not ready. Judge Davidson: the reworking of the CMM forms will assist with this issue. But sentence indications are happening at case review, Judge Davidson recently dealt with 25 case review hearings in one day, including three sentence indications. Sentence indications are often adjourned because there is insufficient time or information to provide a sentence indication at the case review hearing. But the purpose of a case review hearing is simply to address the matters required to progress the case. If it is possible to deal with those matters quickly then that can occur. Otherwise a date can be set to address those matters. Young J: it was never the intention for complex pre-trial matters to be dealt with at the case review hearing.

*Action: the Sub-Committee will continue to monitor the rate of guilty pleas entered after second appearance. Megan Anderson to arrange for a Notice of Response form to be drafted, made available to the Sub-Committee and, if approved, put on the Ministry of Justice website.*

**9. Draft amendment rules**

It is likely to take three to six months for the amendments proposed at this meeting to be ready. Judge Davidson: the amendments are urgent. They should be implemented now.

*Action: rules already drafted by PCO to be referred to the Rules Committee for approval (after discussion with Winkelmann J).*

**10. Areas for expansion of the rules**

**(a) Service of documents on prisoners**

Young J: it is not uncommon for defence counsel to complain that a document has been sent to a prisoner and either it is not received or received some time later. Lynn Hughes: it can sometimes take two weeks for the document to be served on the prisoner. David Jones: documents are sent in a sealed envelope with a covering letter saying that this is a legal communication and therefore privileged. Anecdotally, the confidential envelope is not provided in a sealed state and it takes several days to receive. Judge Davidson: prisoner transfers complicate the ability of prisoners to receive documents.

*Action: France J to write to the Department of Corrections saying the failure to provide documents to prisoners in a timely way is an issue of serious concern that has been affecting the administration of the Courts. The Sub-Committee has recommended a rules change to ensure service is effected within a certain maximum timeframe. Ask for comment from Corrections on both topics: failure to provide documents to inmates in a timely way and the possibility of a rule.*

**(b) Access to transcripts and FTR recordings by parties**

Young J: the question is "whose is it?" That defines who can access transcripts and FTR recordings. A rule does not seem to be necessary. Judge Davidson: when someone wants access to a transcript, there is a time honoured way of dealing with such requests, which works. Such issues should be dealt with on a case-by-case basis.

*Agreed: no action to be taken.*

**(c) Private communications with counsel over AVL**

Lynn Hughes: most judges are very accommodating and allow for lawyers to have a private conversation with their client if it is necessary to take instructions on an unforeseen matter. France J: it would be very difficult to draft a rule to cover such situations.

*Agreed: no action to be taken.*

**(d) Sensitive evidence**

Young J: the handling of child pornography exhibits and the like is an administration issue for court staff. France J: the handling of such exhibits is worth considering. There are already informal procedures in place such as judges sealing a photograph booklet with a note that it is not be opened except on the order of a judge. But there are questions over how judges should transport such material. There are additional complications where the material is presented not as an exhibit but in relation to a sentence indication or pre-trial application.

*Action: Ms Anderson to ascertain what procedures exist for handling sensitive evidence and report back to the Sub-Committee. Item to be kept on the agenda.*

**(e) Self-represented young persons**

*Agreed: this is not a rules issue.*

**11. Unrepresented defendants**

Section 364 of the Crimes Act 1961 provided that the court must give a self-represented defendant a written caution about giving evidence. Section 365 required the court, upon completion of the prosecution's case, to ask the defendant whether he or she wishes to call evidence. Neither section has been carried forward into the Criminal Procedure Act 2011. The question is whether these provisions should be expressed in the Rules in some form or another. The primary concern with the lack of prescribed information to be provided to an unrepresented defendant is the lack of consistency of advice across courts. A number of judges have developed their own documents for distribution to self-represented defendants.

France J: s 365 is redundant but s 364 should be formulated into a rule. Young J: Matt Dodd could review all of the documents developed by District Court Judges and select the core material for the Sub-Committee to consider.

*Action: Judge Davidson to send Matt Dodd any documents developed by the District Court Judges. Matt Dodd to review that material and identify the core information for the Sub-Committee to review. Item to be kept on the agenda for the Sub-Committee to consider.*

**12. Next meeting:**

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|---|---|---|---|---|---|
| Date: | 12 September 2014 | Time: | 9 am | Venue: | Wellington High Court |

*Meeting closed at 11.40 am.*

# Criminal Rules Sub-Committee

**Summary of Action Points: 20 June 2014**

| Minute Item | Description of Action Point | Responsibility | |
|---|---|---|---|
| **3(b)** | **Time requirement for Crown notices**<br>• Megan Anderson to check PCO conventions and ability to "flag" amendments when they are made. | *Megan Anderson* | |
| **3(c) & (d)** | **Summary of facts in CMM and service of documents**<br>• Proceed with amendments. | *France J* | |
| **3(f)** | **Funding for additional member**<br>• Megan Anderson to provide an update at the next meeting. | *Megan Anderson* | |
| **3(g)** | **Nominated persons for feedback at Criminal Bar Association and Law Society**<br>• France J to write to the CBA and Law Society declining requests and advising that Sub-Committee not intended to be representative but very keen to receive feedback. Letter to reiterate request for both organisations to nominate a person to aggregate feedback. | *France J* | |
| **4** | **Incorporation of practice notes into rules**<br>• Practice notes to be cancelled in their entirety: PN1-PN11, PN14, PN15, PN17-19, Preliminary Hearings PN (April 2008).<br>• Practice notes to be converted to rules in their entirety: HCPN 2014/1, Draft PN – Interpreters in Criminal Proceedings.<br>• Practice notes to be referred to the Supreme Court: PN12 and PN16.<br>• Practice notes to be retained: PN13 and Domestic Violence Prosecutions PN. | *France J* | |
| **4(b)** | **PN2 – notes of evidence – official record**<br>• Keep issue of access to notes of evidence and their accuracy on the agenda.<br>• Matt Dodd to research the position in England and Australia. | *Matt Dodd* | |
| **4(x)** | **Publicity, consultation and timing of cancellation of PNs**<br>• Instruct PCO on amendments and practice note cancellation. After PCO drafts amendments, collect all appropriate amendments and forward them to the Rules Committee. Ask the Rules Committee how consultation should be conducted. | *France J* | |
| **5** | **Judge Davidson's report on s 138 and ss 190 – 192 process**<br>• Young J to write to the Solicitor-General explaining that this issue has been thoroughly investigated. The present situation is unworkable and dangerous. The Sub-Committee is not aware of any workarounds that would resolve the situation. The Sub-Committee proposes (1) amending the expiry of the period within which the prosecution can add/amend/withdraw charges to the same date as the CMM is to be filed (ie. five days before case review); and (2) requiring the Crown to file a list identifying each charge three days before the case review hearing. This notice needs to contain sufficient detail so that it is clear what the charges are and what amendments have been made. | *France J* | |

| Minute Item | Description of Action Point | Responsibility | |
|---|---|---|---|
| **6** | **Return of amended charges to the Youth Court after election of jury trial in the District Court**<br>• France J to write to MoJ and MSD stating that in principle the Sub-Committee supports the concept of being able to return amended charges to the Youth Court. | *France J* | |
| **7** | **Report from CMM and TCM working group**<br>• Judge Davidson (and any other members) to consult with Ms Anderson with regard to any possible changes to the documents.<br>• Judge Davidson to consult with a small number of District Court Judges for input.<br>• Item to remain on the agenda for the next meeting. | *Judge Davidson*<br><br>*All interested members* | |
| **8(b)** | **Alignment of time for filing formal statements and Crown TCMs**<br>• Young J to arrange consultation with the defence bar on the proposal. | *France J* | |
| **8(c)** | **Filing of documents by email**<br>• Refer to the Ministry of Justice. | *Megan Anderson* | |
| **8(d)** | **Judicial CPA training**<br>• Refer to the Heads of Bench. | *France J* | |
| **8(f)** | **Comments on CPA from Ron Mansfield**<br>• The Sub-Committee will continue to monitor the rate of guilty pleas entered after second appearance.<br>• Megan Anderson to arrange for a Notice of Response form to be drafted, made available to the Sub-Committee and, if approved, put on the Ministry of Justice website. | *Megan Anderson* | |
| **9** | **Draft amendment rules**<br>• Rules already drafted by PCO to be referred to the Rules Committee for approval (after discussion with Winkelmann J). | *France J*<br><br>*Winkelmann J* | |
| **10(a)** | **Service of documents on prisoners**<br>• Young J to write to the Department of Corrections saying the failure to provide documents to prisoners in a timely way is an issue of serious concern that has been affecting the administration of the Courts. The Sub-Committee has recommended a rules change to ensure service is effected within a certain maximum timeframe. Ask for comment from Corrections on both topics: failure to provide documents to inmates in a timely way and the possibility of a rule. | *France J* | |
| **10(d)** | **Sensitive evidence**<br>• Megan Anderson to ascertain what procedures exist for handling sensitive evidence and report back to the Sub-Committee.<br>• Item to be kept on the agenda. | *Megan Anderson* | |
| **11** | **Unrepresented defendants**<br>• Judge Davidson to send Matt Dodd any documents developed by the District Court Judges.<br>• Matt Dodd to review that material and identify the core information for the Sub-Committee to review.<br>• Item to be kept on the agenda. | *Judge Davidson*<br><br>*Matt Dodd* | |