



## **The Magistrates' Court of Bermuda**

### **Case Management Guidelines**

**These Case Management Guidelines are formulated in accordance with the Constitution of Bermuda, the Overriding Objectives set out in Order 1A of the Magistrates' Court Rules 1973, Part 1 of the Criminal Procedure Rules 2013, and the Guidelines for Judicial Conduct adopted in 2006.**

#### **1. Application of Case Management Guidelines**

- 1.1** Generally, these Case Management Guidelines shall apply to all matters adjudicated upon in the Magistrates' Court of Bermuda.
- 1.2** The Court may give any direction or order and take any steps deemed necessary to actively and effectively manage matters as long as such direction, order, or step is not inconsistent with any legislation or these Case Management Guidelines.
- 1.3** The Court may:
  - (a) give a direction on its own initiative or on application by a party;
  - (b) fix, postpone, bring forward, extend, cancel or adjourn a trial or hearing;  
or,
  - (c) shorten or extend a time limit fixed by a direction or these Case Management Guidelines.
- 1.4** The Court may at any time, if it deems it necessary, review the operation of or compliance with these Case Management Guidelines.
- 1.5** If a party fails to comply with the Court's directions or orders under these Case Management Guidelines, the Court may fix, postpone, bring forward, cancel or adjourn a trial or hearing; and/or impose such sanction as may be appropriate.
- 1.6** A party may apply for a variation of a direction or order if:
  - (a) the direction or order was given in the party's absence; and/or
  - (b) circumstances have materially changed.

Any party seeking a variation of a direction or order must apply as soon as practicable after becoming aware of the issuance of the direction or order, and, give due and reasonable notice to the other parties as the nature and urgency of such application permits.

Any other party shall be afforded the opportunity to make submissions on any application to vary a direction or order.

**1.7** Under these Case Management Guidelines, unless explicitly provided to the contrary, anything a party may or must do may be done:

- (a) by a legal representative of the party;
- (b) with the assistance of a parent, guardian, litigation guardian or other suitable adult where that party is:
  - (i) under the age of 18 years of age, or
  - (ii) is a person whose understanding of the nature of the case is limited by disability or language.

**1.8** The Senior Magistrate, after consultation with the Magistracy and with the approval of the Chief Justice, may at any time and in any way whatsoever, amend these Case Management Guidelines.

## **2. Listing of Matters**

**2.1** At the earliest practical opportunity the Court shall ascertain from the parties the estimated length of time that the matter is likely to take for completion (whether the matter is to be scheduled for a trial or some other hearing).

**2.2** The Court, in its discretion, may estimate the length of time a matter is likely to take for completion, particular if one or more of the parties are unrepresented.

**2.3** Upon ascertaining the estimated length of time that the matter will likely take for completion the Court shall, after consultation with the Court diary and with the parties or their Counsel, list the matter for that estimated length of time. The Court shall enter the estimated time of trial/hearing onto form “**CMF 1**”.

**2.4** If after listing the trial or hearing date the parties or their Counsel determine that the estimated length of time should be varied then they shall as soon as practicable, in writing, notify the Court of their request for a variation. Upon receipt of such request the Court shall determine whether the matter should be

brought forward to consider whether the estimated length of time should be varied, or, to leave the estimated length of time as listed.

**2.5** If the Court determines that one matter may be listed for trial on the same date and time as another already listed matter the Court shall inform the parties or their Counsels that:

- (i) their matter is listed ***“To Follow”*** the already listed matter, and,
- (ii) of the possibility that their trial may not proceed to trial if the already listed matter will proceed to trial.

The matter which is listed to follow an already listed matter shall be referred to as a ***“Warned”*** matter.

**2.6** A party or their Counsel may apply orally to the Court no less than fourteen (14) days prior to the trial or hearing date for their matter to be granted priority over other already listed matters. The party or Counsel of the matter which already has priority shall be informed of such application by the party or Counsel seeking priority, and, they shall be afforded the opportunity to make any submissions to the Court in this regard.

**2.7** The Court may at any time, on its own motion and where it is deemed necessary in the interests of justice, to prioritize any matter over another matter. If the Court decides to prioritize any matter over another matter the parties or their Counsel shall as soon as practicable be informed of such decision, and be afforded the opportunity to make any submissions in this regard.

### **3. Pre-Trial Case Management Hearing**

**3.1** The Court shall determine whether there is good reason to set a Pre-Trial Case Management Hearing so that the following may be ascertained and if necessary adjudicated upon:

- (i) the parties’ readiness for trial (including any applications for an adjournment);
- (ii) compliance with earlier directions or orders, and whether any further directions or orders should be made;
- (iii) any disclosure issues;
- (iv) the availability of Counsel and witnesses;
- (v) the legal and factual issues in dispute;
- (vi) the admissibility of evidence (documentary or otherwise);
- (vii) estimated length of the trial;

- (viii) the use of any specific technology during the proceedings;
- (ix) any other preliminary issues deemed relevant and appropriate by the Court, the parties or the parties' Counsels.

**3.2** If the Court, in its discretion, determines that a Pre-Trial Case Management Hearing should be set then the date fixed for the said hearing shall not be less than fourteen (14) days before the date of the trial.

**3.3** If deemed necessary more than one Pre-Trial Case Management Hearing may be held.

#### **4. Adjournments**

**4.1** Notice of any applications for an adjournment shall be in writing and shall be given to the Court at least seven (7) days prior to the trial or hearing date.

**4.2** Applications for an adjournment made on the day of the trial or hearing will only be granted in exceptional circumstances.

**4.3** If a party has failed to comply with the Court's directions or orders the Court will, unless good cause is shown for the non-compliance, refuse an adjournment.

#### **5. Progression or Continuation of Matters**

**5.1** If a trial or hearing cannot be completed in the estimated time fixed the Court shall give further directions for its expeditious completion after consultation with the Court diary, the parties, or Counsel.

**5.2** The Court shall take all reasonable steps to ensure that: (i) a trial or hearing continues on consecutive days until it is completed, and (ii) a trial or hearing is completed within four (4) weeks after its commencement. If the Court is awaiting receipt of reports (such as Social Inquiry Reports, Mental Health Assessments, Bermuda Assessment and Reference Centre (BARC) Reports, etc.) then the trial or hearing shall be completed within four (4) weeks after the Court is in receipt of the said reports.

**5.3** If the Court is unable to complete the trial or hearing within four (4) weeks after its commencement date or within four (4) weeks after receipt of any reports then the Court shall record the reasons for not being able to do so on form CMF 1.

**5.4** In any event, the Court shall take all reasonable steps to ensure that any trial or hearing is completed within three (3) months of its commencement date unless there are exceptional reasons for not being able to do so.

**6. Readiness for Trial or Hearing**

**6.1** Each party or their Counsel shall:

- (a) comply with directions and orders by the Court;
- (b) take every reasonable step to make sure that their witnesses will attend Court when needed;
- (c) make appropriate arrangements to present any written or other materials to the Court;
- (d) promptly inform the Court or any other party of anything that may:
  - (i) affect the date or duration of the trial or hearing, or
  - (ii) significantly affect the progress of the case in any other way

**7. Delivery of Judgments**

**7.1** In accordance with Clause 68 of the Guidelines for Judicial Conduct, Magistrates should deliver a reserved Judgment as soon as practicable, and absent circumstances justifying a longer period, no later than six (6) weeks after the conclusion of the trial or hearing.

**7.2** If other work commitments prevent a Magistrate from completing a Reserved Judgment, it is the responsibility of the Magistrate to raise the matter with the Registrar or the Chief Justice so that an opportunity to complete the Judgment can be provided.

**Dated the 1st day of June, 2019**

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**The Worshipful Juan P. Wolffe**  
**Senior Magistrate**