

Court Has Jurisdiction to Order 'Old-Style' Committal in Criminal Proceedings

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In a judgment delivered by High Bailiff Moyle at Douglas on January 13 2004, the court confirmed that it holds a rarely exercised statutory jurisdiction to order that in criminal proceedings sought by the prosecution to be dealt with by a higher court - in the Isle of Man this is a court of general gaol delivery (akin to the English crown court) - the prosecution witnesses can be summoned to give oral evidence in an 'old-style' committal process, in order to allow the court to test the quality of the prosecution case within the context of a submission of no case to answer.

The test in the Isle of Man mirrors that of England and Wales, in that during the committal process, which is now a statutory mechanism, if the court considers that no reasonable jury could convict a defendant were the matter to come to trial, the charges against the defendant should be struck out.

This, as in England, is a low test for the prosecution to satisfy, with the emphasis being on 'could' rather than 'would', 'may' or 'will'.

In the absence of clear authority as to the circumstances in which this discretion should be exercised, the high bailiff had to consider in the current case, within the exercise of his discretion, the interests of a defendant who must cope with the worry, expense and delay involved in dealing with the matter before a jury for the weakness of the prosecution case to be exposed. On the other hand, the court should be anxious to avoid a situation where the committal process is used as a calculated means to delay, embarrass or inconvenience the prosecution witnesses, or the process generally. Fairness in the process applied to both the prosecution and the defendant.

In acknowledging the rareness of applications of this type, the high bailiff recalled that in over nine years he has only ever dealt with two such applications. Nonetheless, the discretion to order an oral/old-style committal within proceedings of this type endures in the Isle of Man, and will be exercised in appropriate circumstances

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