

ATTENDING A COURT– A BRIEF GUIDE



Contents

[What is the Scottish Court Service?](#)
[Finding your local court](#)
[Attending a criminal court](#)
[Attending a civil court](#)
[Guidance on coming to court](#)
[A glossary of legal terms](#)
[SCS Court Users' Charter](#)
[Providing feedback or making a complaint](#)

What is the Scottish Court Service?

The [Scottish Court Service \(SCS\)](#) is an independent, statutory body responsible for the day to day running of the courts and the Office of the Public Guardian in Scotland.

The service provided by the Scottish Court Service will be fair, regardless of race, ethnic origin, age, gender, religious beliefs, sexual orientation or disability.

The standards that you can expect from us are set out in our [Court Users Charter](#).

Finding your local court

You can find locations for all our courts, along with contact details, opening hours, facilities and local information on our website at www.scotcourts.gov.uk/locations/index.asp.

You may need to contact your local court for particular information about your visit, particularly if you need any special assistance when attending. Normally courts are open to members of the public but there are times when this is not possible and you should check in advance if you are planning to attend a particular case.

More information is available if you are attending court as a:

- [Juror](#)
- [Witness](#)
- [Victim of Crime](#)

Visits by groups and schools to a court must be arranged in advance by contacting the sheriff clerk.

Attending a Criminal Court

Where will the case be heard?

There are four courts which can hear criminal cases in Scotland.

- The **High Court** hears the most serious cases including all cases of rape and murder. There are no limits on the length of prison sentences, or the amount of any fine the High Court may impose.
For more information about the High Court visit www.scotcourts.gov.uk/justiciary/just_office.asp
- The **Sheriff Court** can hear all other criminal cases. These cases are dealt with by solemn procedure or summary procedure. In solemn procedure, the court can sentence an accused to a period of up to five years in prison or impose a fine of any amount. In summary procedure, the court can sentence an accused to a maximum period of twelve months and the maximum fine is £10,000.
For more information on sheriff courts visit www.scotcourts.gov.uk/sheriff/index.asp
- There is one Stipendiary Magistrate's court in Scotland, in Glasgow. The stipendiary magistrate can sentence an accused to a period of up to one year in prison and the maximum fine the court can impose is £10,000.
- The **Justice of the Peace Court** hears minor summary cases. The Justice of the Peace can sentence an accused to a period of up to sixty days in prison or impose a fine of up to £2500.
For more information on justice of the peace courts visit www.scotcourts.gov.uk/district/index.asp

The Procurator Fiscal decides which court the case will be heard in. Generally cases in the sheriff court, Justice of the Peace Court or the stipendiary magistrates court are held in the court closest to where the crime was committed. High Court cases are generally heard in the High Court buildings in Edinburgh or Glasgow or within dedicated premises at Aberdeen. In practice the High Court may also sit in a suitable sheriff court building in a town or city near where the crime happened.

For more information about the Crown Office and Procurator Fiscal Service in Scotland please visit www.copfs.gov.uk.

Procedures in a Criminal Court

Who's who in court?

- **Judge, Sheriff, Justice of the Peace**

A judge, sheriff or Justice of the Peace makes sure that the law is complied with and is responsible for sentencing an accused following conviction.

The judge, sheriff or Justice of the Peace normally sits at the head of the courtroom on a raised platform commonly known as the Bench.

The judge or sheriff may sit with or without a jury, depending on the seriousness of the case and the procedure being adopted. The Justice of the Peace will always sit without a jury.

- **The Prosecutor**

In the courtroom the prosecutor presents the evidence in the case against the person charged with the crime. This is done by the Lord Advocate or an advocate depute in the High Court. The local Procurator Fiscal or one of the deputies does this in the sheriff court and the Justice of the Peace Court.

- **The Accused**

The person who has been charged with the crime is commonly known as “the accused”.

- **The Accused’s Solicitor**

Accused persons may represent themselves or nominate a solicitor to represent them in court. The accused’s solicitor will normally sit in the well of the court alongside the prosecutor and the clerk of court, facing the bench.

- **Court officials**

The clerk of court, who is an employee of the Scottish Court Service (SCS), calls the case, records the court’s proceedings and gives advice on court procedures. However, in the sheriff court and High Court, the clerk, who normally sits at the table in front of the judge facing into the courtroom is not legally qualified and cannot give legal advice. The clerk of court will issue and sign any relevant documentation which includes authorising the imprisonment or release of the accused.

In Justice of the Peace Courts the clerk of court, also an SCS employee, is legally qualified and performs the same functions as the clerk of court in the sheriff court. In addition they record evidence in trials and may provide advice to a Justice both before and after conviction.

The court officer, or macer in the High Court, calls the accused and any witnesses into the courtroom. This officer will show the accused where to sit or stand and helps keep order in the courtroom.

Criminal Court Procedures

Making a plea

At the start of a case the accused is asked to plead to the charge or charges they face. If the plea is not guilty, a date will be fixed for a trial when evidence in the case will be heard. This date may be several weeks ahead. The accused can plead guilty to the charges at any stage in the proceedings.

Where the accused pleads not guilty a hearing, in summary cases called an intermediate diet, is set down a couple of weeks before the trial. This is to confirm that the trial is ready to go ahead on the allocated date. If for any reason the trial cannot go ahead as planned, a new date may be fixed at this stage.

The trial

At the trial, where the accused still wishes to plead not guilty to the offence, both the prosecutor and the accused can call witnesses to give evidence. Sometimes the trial cannot go ahead on the arranged day. This can happen for a number of reasons, many of which are outwith the court’s control, for example where a witness or the accused person falls ill.

After all the evidence has been presented by both the prosecutor and the defence, a decision is taken on the guilt of the accused. In a jury trial, where 15 people hear the evidence, the jury makes this decision. This happens in High Court cases and in solemn cases in the sheriff court. In all other trials the sheriff or Justice of the Peace makes that decision on the basis of the evidence which has been presented.

The Sentence

If the accused has pled guilty, or has been found guilty after the trial, the court will consider the question of sentence. This might not happen on the same day. The case

might be continued for several weeks for a number of reasons, for example, so that the court can ask for background reports. These reports will provide the court with additional information on the offender which will help when deciding on the most appropriate method of dealing with the case. Where a case is continued, the court will decide whether the accused is to be detained in custody, released on bail or allowed to remain at liberty, with no conditions attached.

Various sentences can be imposed by the court. These may include a sentence of imprisonment, the imposition of a fine or the issue of a community payback order, a restriction of liberty order or a drug treatment and testing order.

Criminal Appeals

In all criminal cases, if the accused feels that part of the trial was unfair or that the sentence was unduly harsh, he/she can appeal to the High Court of Justiciary. The prosecutor can also appeal if they believe the sentence was too lenient. There are time limits which apply. It may be some time before the appeal can be heard and the accused may be released on bail pending the appeal or may remain in custody while the appeal is being dealt with. This is at the discretion of the Appeal Court.

Useful contacts:

[Finding a legal aid solicitor](#)
[Crown Office and Procurator Fiscal Service](#)
[Scottish Legal Aid Board](#)
[Scottish Prison Service](#)

Attending a Civil Court

Civil courts help to resolve disputes between parties. Parties can be individuals, companies or organisations. The cases themselves may relate to various subjects such as recovery of personal debt, divorce actions and actions relating to contact with children.

Where will the case be heard?

Civil actions may be raised in the sheriff court or the Court of Session. The Court of Session is Scotland's supreme civil court which sits in Parliament House in Edinburgh. The Court of Session also deals with appeals in certain civil matters.

For more information on Court of Session visit www.scotcourts.gov.uk/session/index.asp

Types of civil case

Four types of civil case can be dealt with in the Sheriff Court:

- small claim actions;
- summary cause actions;
- ordinary actions; and
- miscellaneous actions.

Small claims action – actions for payment of a sum of money up to and including £3000, actions for an order requiring someone else to carry out an obligation or perform a duty (e.g. performance of a contract) where the monetary value is less than £3000.

Summary cause action - actions with a monetary value of between £3000 and £5000, or seeking delivery of an object.

Ordinary action - actions with a monetary value greater than £5000 are raised using the **ordinary cause procedure**. Other examples are actions for divorce and actions relating to contact with children.

Miscellaneous actions – actions raised as a result of provisions in legislation, for example, relating to bankruptcy or liquidation of a company, the protection of children or incapable adults. The courts also consider applications for adoption of children.

Civil Procedure

Whatever type of civil action is raised, it is likely that hearings will take place before a date is fixed for a proof. These hearings will assist in clarifying the issues in dispute. A diet of proof is where a sheriff will hear evidence in the case and, in the case of an ordinary action, will issue a written judgment. Where actions are summary cause or small claims a sheriff may give his/her decision verbally from the Bench at the conclusion of the proof diet.

There is no legal requirement for an individual to use a solicitor to conduct the case, though in most ordinary actions the legal issues can become more complex.

In the sheriff court an ordinary action begins with the lodging of a writ (a formal written application) with the sheriff clerk. The sheriff clerk grants warrant to serve the writ on the defender (i.e. opponent) and he/she has a period of 21 days to lodge a notice indicating a wish to defend the action. If a notice is received by the sheriff clerk, they will fix dates for various steps in the procedure and there can be a number of hearings before a diet of proof is fixed. If the case is not defended, then the order which the pursuer applied for may be granted together with an award of expenses.

The procedure in small claims and summary cause actions is quite similar commencing when an application form is completed by the pursuer (i.e. the person making claim). Warrant to cite is granted by the sheriff clerk but in a small claim action the sheriff clerk will also serve the papers on the defender, provided the pursuer is an individual and not a company or partnership. Again the defender is required to indicate whether or not they wish to defend the action and if not, decree may be granted against the defender in the terms of what was sought by the pursuer.

Most miscellaneous actions begin with the lodging of a summary application. The sheriff clerk grants warrant to serve on the respondent and a date is fixed for the case to call in court. In the interim the respondent should consider lodging answers to the claim against them. As with ordinary actions if no response is received, the court will most likely grant the order sought together with an award of expenses.

Civil Decrees

Where a final order is made in any case, the court will issue an extract decree. This is a formal copy of the order made by the court which will be issued to the successful party and which may be used to enforce the order. It may, for example, be an order to pay a sum of money with interest due, an order prohibiting a certain course of conduct, or indeed an order relating to the care of children. The enforcement of the court order may involve instructing sheriff officers.

Civil Appeals

As with criminal proceedings, the unsuccessful party in a civil action has the opportunity to appeal the decision. Depending on the nature of the court order an appeal may be taken to the sheriff principal of the sheriffdom in which the case was heard or in some cases to the Court of Session. There are time limits which apply.

In certain instances it may be possible to lodge an appeal with the [UK Supreme Court](#).

Guidance on coming to court

The following points may be of assistance when preparing to attend at court.

Do

- arrive in good time for your case, you may require to pass through metal detectors/security when entering the building.
- dress in a manner which suits the serious nature of the business being conducted in court.
- follow carefully any guidance or instructions given to you by court officials
- be polite and courteous to the judge / sheriff, to other court users and to court officials.
- switch off your mobile phone before entering the courtroom and keep it switched off throughout the proceedings.

Do not

- attend the court whilst under the influence of drink or drugs.
- make audio or video recordings or take photographs in the courtroom, unless you have the court's authority to do so.
- eat or drink in the courtroom.
- bring dogs or any other pets, other than guide dogs or hearing dogs, into the court building.

Court users should also note that children under the age of 14 (other than infants in arms) are not normally allowed in the courtroom unless they are giving evidence or have the court's prior approval to attend for educational purposes. The Scottish Court Service does not provide childcare facilities.

Should the court consider your behaviour to be inappropriate or disrespectful you could find yourself being held in contempt of court. This could result in you being fined or sent to prison.

Further Information

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The Scottish Court Service hopes that this leaflet has given an insight into the operation of courts in Scotland but if you have any queries please do not hesitate to contact the sheriff clerk at your local sheriff court or visit www.scotcourts.gov.uk .

Further publications that may be of interest to you are:

- [Glossary of Legal Terms](#)
- [Court Users' Charter](#)
- [Feedback/Complaints](#)

Useful websites

- [Crown Office and Procurator Fiscal Service](#)
- [Finding your nearest legal aid solicitor](#)
- [Scottish Legal Aid Board](#)
- [Judiciary of Scotland](#)
- [Scottish Prison Service](#)
- [Attending court as a witness](#)
- [Attending court as a victim of crime](#)