

Attending a criminal court

Who are we?

We are an Executive Agency of the Scottish Executive Justice Department. Our main function is to support the judges and sheriffs in the Supreme and Sheriff Courts in Scotland. Our staff are properly trained to carry out the administrative, technical and organisational services needed for our courts to run smoothly, while giving an efficient and courteous service to court users. We also provide and maintain court buildings.

Our service will be fair, whatever your race, ethnic origin, age, gender, religious beliefs, sexual orientation or any disability. We are committed to treating victims with compassion and respect for their dignity, and to improving our services to victims, including bereaved next of kin. All court users will be treated in the same professional manner.

What can you expect at court?

As part of our services to all court users you can expect the following.

- Public offices that are generally be open weekdays from 9.30am to 1pm and from 2pm to 4pm (3.45pm on Fridays). You may wish to check times with your local court.
- Clearly marked reception or information points.
- Clear signs to help you get around.
- Lists of cases to be heard displayed clearly on noticeboards.
- Clean, adequate and comfortable accommodation.
- Recent reading materials in witness rooms.
- At least one public telephone.
- Sufficient, clean toilets.
- Refreshment facilities for all or part of the day, and toys for children, in all but the smallest courts.
- Disabled access, where possible, to the main public areas of every courthouse.
- Induction loops and sound-enhancement systems in most courtrooms for people with hearing difficulties.
- Information booklets about our services and a range of court-related procedures. A number of these are now available in various minority languages, Braille, on audio tape and in large print.
- If English is not your first language, or you are deaf or hard of hearing, an interpreter can be provided for you in the courtroom. This service is free of charge. The Clerk of Court will arrange

interpreters for the accused. The Procurator Fiscal's Office or Victim Information and Advice Office will arrange interpreters for victims and crown witnesses.

- We are registered with Typetalk and Text Direct, which are services provided by the Royal National Institute for Deaf People and by British Telecom. These services let people who are deaf or hard of hearing have telephone access to court offices.
- We are registered with Languageline. If English is not your first language, this service can help you speak to court staff, whether in person or by telephone.

Find out more about our service to all court users in the booklet 'Scottish Court Service: Court Users Charter'.

Witnesses can expect the following:

- Separate waiting areas for Crown and defence witnesses in most courts. Where this is not possible, arrangements can be made for Crown witnesses to wait apart from defence witnesses. You can arrange this by speaking to the Clerk of Court well before the court date.
- Witness Service volunteers to provide information, advice and support to victims and witnesses (available in all Sheriff Courts by summer 2002).
- Witnesses will be kept informed of the progress of cases throughout the day, and be given an explanation for any delays.
- If witnesses are no longer needed to give evidence, they will be allowed to leave as soon as possible and told what has happened in the case.

You can find out more about our services for witnesses and victims of crime in the booklet 'Scottish Court Service: Standard of Service for Victims'.

If you have any special needs you should let the Clerk of Court know well before your court date.

How should you behave in court?

If you are attending court, you should bear in mind the following points.

- Arrive in good time for your case.
- Be quiet until your case is called.
- Be polite and courteous to the judge/sheriff, to other court users and court officials.
- Remove your hat when entering the courtroom.
- Dress in a manner that suits the serious nature of the business conducted in court.
- Do not attend court under the influence of drink or drugs.
- Do not smoke, eat or drink in the courtroom.
- Do not make audio or video recordings or take photographs in the courtroom.
- Do not read in the courtroom, unless you are asked to do so.
- Do not bring dogs, other than guide dogs, into the courtroom.
- Children under the age of 14 (other than babies) are not normally allowed in the courtroom unless they are giving evidence, or have the court's prior approval to attend for educational purposes. Babies will only be allowed to stay in the courtroom if they are quiet. Childcare facilities are not currently available in courts.

You may be held to be in contempt of court if you ignore these guidelines. This could lead to a fine or a period of imprisonment.

Where will the case be heard?

A number of important factors determine which court will hear a particular case, including the following:

First, the seriousness of the crime, and the likely length of the sentence to be imposed:

- 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, that the High Court may impose.
- The Sheriff Court can hear all other criminal cases. In the more serious cases, the court may impose up to five years' imprisonment or a fine of any amount. In the less serious cases the maximum prison sentence is normally three months - or six months for a second or subsequent conviction - or a fine up to £5,000;
- The Stipendiary Magistrate's Court hears less serious cases. It may impose up to three months' imprisonment - or six months for a second or subsequent conviction - or a fine up to £5,000. Currently only Glasgow has a Stipendiary Magistrate's Court;

- The District Court hears more minor cases, and may impose up to sixty days' imprisonment - or a fine of up to £2,500;

If the person accused of the crime has previous convictions, this may increase the length of the sentence.

Second, where the crime was committed:

- Cases in the District Court, the Stipendiary Magistrate's Court, or Sheriff Court, the case will normally be heard in the court closest to where the crime occurred;
- Cases in the High Court may be heard in the High Court Buildings in Edinburgh or Glasgow or in a suitable Sheriff Court in a town or city near where the crime occurred.

Who's who in court?

The judge or sheriff

- The judge or sheriff ensures that the law is complied with.
- In the High Court, and in serious cases in the Sheriff Court, if the accused person denies the charges a jury will hear the evidence and decide whether he or she is guilty. In less serious cases the sheriff decides without a jury whether the accused is guilty or not.
- The judge or sheriff is responsible for sentencing if it is established that the person charged with the crime is guilty.
- The judge or sheriff normally sits at the head of the courtroom on a raised platform, commonly known as the "Bench".

The prosecutor

The prosecutor presents the case against the person charged with the crime. The Lord Advocate, or one of his or her deposes, does this in the High Court. The local Procurator Fiscal, or one of his or her deposes, does this in the Sheriff Court. The Prosecutor normally sits at the left-hand side of the table in front of the "Bench".

The accused

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

The accused's solicitor

The accused may represent her or himself, but is normally represented by a solicitor. The accused's solicitor will normally sit at the right hand-side of the table in front of the "Bench".

The solicitor conducts the case on behalf of the accused. If the guilt of the Accused is established, the solicitor will give background information on the Accused to the judge or sheriff.

The jury

If the accused denies the charges, a trial is held. At the trial evidence is heard to determine whether he or she is guilty. In serious cases a jury hears the evidence. The jury is made up of fifteen members of the public chosen at random from the electoral register.

Members of the public asked to attend court for jury selection sit in the public area of the courtroom. If they are chosen for jury service they will sit in the jury box. This reserved seating is usually at one side of the courtroom, near the judge/sheriff.

The witnesses

Witnesses come to court as either Crown witnesses, which means the prosecutor calls them, or defence witnesses, which means the accused (or his or her solicitor) calls them.

When witnesses arrive at the courthouse, reception staff will tell them where to wait until they are called to give their evidence. Witnesses must stay outside the courtroom until their name is called.

When they are called into court, the witnesses will be asked to stand in the witness box to give evidence. The witness box is normally at the side of the courtroom, near the judge/sheriff. If a witness is unable to stand to give evidence they should ask the judge/sheriff if they can sit down.

Once in the witness box, the witness will be asked to take an oath to tell the truth. If a witness prefers not to swear an oath, he or she may ask to affirm that they will tell the truth.

The prosecutor will question witnesses to build up a picture of the crime. The accused's solicitor will also question the witnesses, for example, to test what they remember, or to suggest an alternative explanation. If the accused has no solicitor, he or she may question the witnesses directly, in certain circumstances.

Once all the prosecutor's witnesses have been questioned, the accused may give evidence personally, and may also call additional witnesses to help in establishing his or her innocence. The prosecutor can also question the defence witnesses.

After giving evidence, witnesses:

- will be told by the judge/sheriff whether they are free to leave the court, or whether they may have to give more evidence and must therefore stay in the court
- may, if they wish, sit in the courtroom to hear the rest of the case
- must not return to the witness waiting room after giving evidence in court
- must not discuss their evidence with other witnesses who have not yet given their evidence

The police

In most courtrooms there will be at least one police officer. He or she helps maintain order in the courtroom.

Court officials

- The Clerk of Court calls the cases, records the court proceedings, and advises court users on court procedures. He or she normally sits at the table in front of the judge/sheriff, facing into the courtroom.
- The Court Officer, or Macer in the High Court, calls the accused and witnesses into the courtroom. He or she will show them where to sit or stand, and helps maintain order in the courtroom.

Both the Court Officer/Macer and Clerk of Court can advise you if you have any queries about what is happening, or any complaints about how you are being treated, but you should avoid interrupting them when they are involved in court duties.

The public

Most cases are open to the public. The public seating is usually at the back of the courtroom, behind the dock and facing the judge/sheriff.

What Happens in Court?

First calling

In serious cases heard by a jury, one or two procedural hearings may be held in private. In less serious cases, there may also be one or two procedural hearings held in public, at which the accused will say whether or not they admit committing the crime. At these hearings the judge/sheriff will decide whether the accused should be held in custody, or released, possibly on bail.

Not guilty

If the accused pleads not guilty, a date will be fixed for the trial, at which evidence in the case will be heard. This date is likely to be several months ahead.

Guilty

The accused can plead guilty to the charges at any stage in the proceedings. This can be done on a date already fixed for hearing the case or the date of the case can be brought forward for this purpose. Once the accused has admitted guilt, the case proceeds to sentence.

Intermediate or first diet

A couple of weeks before the trial, a hearing may be held to confirm that the trial is ready to proceed. If, for any reason, the trial cannot go ahead as planned, a new date will be fixed.

Trial

At the trial, both the prosecutor and the accused's solicitor can call witnesses to give evidence. Sometimes the trial may not go ahead on the arranged day. This can happen for a number of reasons, for example the accused or an important witness may not appear, or some evidence may not be available.

Verdict

After all the evidence has been presented, a decision is taken on the guilt of the accused. In jury trials, the jury makes this decision. In all other trials, the sheriff makes this decision.

Sentence

If the accused has admitted guilt, the prosecutor provides the court with a brief account of the circumstances of the crime. If the accused was found guilty after a trial, the court will already have this information. The prosecutor will also give the court details of any previous criminal record of the accused. The judge/sheriff will impose a sentence. This may be done on the same day, or the case may be continued for a few weeks, to get background or medical reports on the accused.

Before sentence is passed, the accused or her/his solicitor will be given an opportunity to explain to the court the reason for committing the crime, and to put forward any relevant information about her/his personal circumstances.

In deciding the sentence the judge/sheriff will consider:

- the whole circumstances of the crime;
- any criminal record of the accused; and

- the accused's personal circumstances.

The judge/sheriff must also take into account:

- the age of the accused, if he or she is under 21;
- whether the accused has been to prison before;
- any relevant guidance provided by the High Court;
- any time the accused has spent in custody awaiting trial;
- a plea of guilty;
- any minimum sentence required by law; and
- racial aggravation.

What sentence can be imposed?

A range of sentences can be imposed by the judge/sheriff.

- **An absolute discharge** may be granted where it would be inappropriate to punish the accused, perhaps because of the circumstances of the crime, or the character of the accused.
- **An admonition** is a warning. A note is kept on the accused's criminal record and will be taken into account if they stand accused again.
- **An order to find caution** requires the accused to pay money to the court as security for her/his good behaviour over a certain period. This can be for up to one year in the Sheriff Court. At the end of the period, if the accused has been of good behaviour he or she can apply to the court to have the money repaid.
- **A fine** is a sum of money paid by the accused to the court. It may be paid as a lump sum at the time of sentencing, or within a few weeks, or the accused may be allowed to pay the fine by instalments. If the accused fails to pay the fine he or she will be called to appear at a Fines Enquiry Court. He or she may be given more time to pay or he or she may be sentenced to a period of imprisonment as an alternative to paying the fine.
- **Supervised attendance order** – instead of serving a period of imprisonment for failing to pay a fine, the court may impose a supervised attendance order. This requires the accused to carry out constructive activities under supervision – such as unpaid work for between 10 and 100 hours, depending on the amount of the unpaid fine.
- **Compensation** – either in addition to, or instead of, most other sentences, the court may order the accused to pay compensation to their victims for loss or injury resulting from the crime. In fixing the amount, the court will consider the accused's financial circumstances. This money is paid to the court, which then forwards the money to the victims.

- **Probation order** – which requires the accused to be under the supervision of a local authority officer for a fixed period of between six months and three years.
- **Community service order** – which requires the accused to undertake between 80 and 300 hours of unpaid work in the community, under the supervision of a social worker. This is a direct alternative to a period of imprisonment.
- **Imprisonment** – the type of court in which the trial was held determines the length of the period of imprisonment that may be imposed. If the accused is aged between 16 and 21, they will be detained in a Young Offenders Institution rather than a prison.

Other penalties can be imposed. For example:

- endorsement of the accused's driving licence
- disqualification from driving
- forfeiture of property, e.g. weapons or tools used during the crime
- forfeiture of money or goods acquired as a result of a crime
- restriction of liberty (tagging) orders
- drug treatment and testing orders
- non-harassment orders
- deportation.

Appeal

If the accused feels that some element of his/her trial was unfair, or that the sentence was unduly harsh, he or she can appeal to the High Court of Justiciary. The prosecutor can also appeal if he or she believes that the sentence was too lenient. An appeal can take several months, and the accused may be released pending the appeal.

Finding out more

For information on the progress of the case you can contact the local Procurator Fiscal's Office, or Victim Information and Advice Office. For information on the outcome of the case, you can contact the clerk of the court that you attend or the Victim Information and Advice Office.