

Information for potential jurors

Having been summoned for jury service you may be concerned about its effect on your domestic and working arrangements. You may also be unsure of the demands which the law might make on you as an ordinary member of the public having little knowledge of legal matters. It is hoped that this leaflet will help to minimise the inconvenience caused by your attendance and explain the reasons for your

Why have you been called?

Potential jurors are chosen at random from the electoral register. It is a duty required of most people since in Scotland a person charged with a serious crime may have the question of guilt decided not by a Judge but by fellow members of the public. The service given by those who attend as jurors is an essential part of the administration of our criminal law.

In a Scottish criminal trial the jury is made up of 15 persons. Those 15 will be chosen from the larger number summoned.

Do you have to attend?

You must attend unless there are reasons which would allow you to be excused, and some are set out on your citation. In addition you may have commitments at work, cancellation of which would cause abnormal inconvenience either to yourself or others, or holiday plans which would be difficult or expensive to re-arrange. In these and similar situations the court officials try to be sympathetic, however you must get in touch with the Sheriff Clerk as early as possible. You must understand that they may, in the end of the day, be unable to help.

What can you wear?

As has been explained, jury service plays an important part in our criminal law. For this reason the court considers that it is unnecessary to lay down rigid guidelines on what jurors can or cannot wear but prefers to leave the matter to your discretion and good common sense.

For how long and at what cost?

How long you will require to attend depends on many factors, and the court cannot control some of these. For instance there may be more than one case set down for trial and the number of witnesses differs in each case. However, it is hoped that the sitting will not last more than a week. You should be able to go home each evening but if there are good reasons why you cannot do this, you may recover the cost of your overnight accommodation. If you do require to do this, you should discuss the matter with the Sheriff Clerk who issued your citation. You do not get paid for jury service. But if you lose earnings, or need to pay someone else to do your job, you can be paid compensation, subject to certain limits. Again you should see the Sheriff Clerk about this.

When are you picked?

When you attend, you will be shown into court to take your place among the other people who have been summoned. Inevitably, some time has to be spent in checking arrivals and making enquiries about any absentees, whose failure to appear renders them liable to be punished. This would be a good time to ask the clerk of court about any matters over which you have any doubts. Once the attendance of all potential jurors has been confirmed, slips containing their names, addresses and citation numbers will be placed in a jury bowl.

In some cases the accused may decide to plead guilty and when this happens a jury is not required. Where more than one case has been set down it is normal to take any guilty pleas first. You may therefore need to wait until these cases have been dealt with, and the court can only ask you to be tolerant of the delay.

The first case for trial will be called, and at that point the clerk of court will select 15 names from the jury bowl. During the selection process, the prosecutor and each accused can object to a maximum of three names without giving any reason. You should not be worried or offended if you are objected to.

What should you do if you know the accused?

If you think you know the accused you should inform the clerk of court immediately. The clerk will then report the matter to the Judge who will decide whether you should be excused from serving as a juror on the trial in question. If you are excused this will not necessarily mean that you are discharged from further attendance and you may be asked to return later in the week if there are other cases to be heard.

What happens next?

After the jury has been selected, the clerk will read to them the charge against the accused and then administer the oath. Any juror who wishes may affirm instead, but prior notice of this should be given to the clerk.

If you have not been selected and further cases remain you will be told when to return and may have to return more than once in the course of the week. The court appreciates that this may be inconvenient, but experience has shown it to be the arrangement which causes the least upset to everyone.

The progress of the trial

In Scotland all prosecutions are brought by the Crown acting through the Lord Advocate, or one of his Deputies, or the Procurator Fiscal. It is the task of the Crown to convince the jury of the guilt of the accused. This can only be done by providing evidence. Evidence can only be obtained from witnesses; and so the aim of any trial is to allow the jury to hear witnesses and then to decide if what the witnesses say satisfies them that the charge has been proved.

Although some Judges like to give a short explanatory talk to the jury, there are no preliminary speeches on behalf of either the Crown or the accused. The trial begins

with the entry of the first witness for the Crown who is examined, first by the prosecutor in what is known as evidence in chief, then by the counsel or solicitor for the accused in cross-examination. The Judge may also ask the witness questions to clear up any matter of doubt. Just as the witness may have seen much or little, so the examination may be lengthy or short; and the same procedure is followed for each witness until, when the prosecutor has called all the witnesses whose evidence the jury is to consider, the Crown case is closed.

As there is no obligation to prove innocence, the accused is **not** bound to lead evidence. If evidence is led, the same procedure is adopted, except that the roles are reversed; counsel or solicitor for the accused examines the witness, the prosecutor cross-examines, and counsel or solicitor for the accused re-examines.

When all the evidence has been led, the prosecutor and counsel or solicitor for the accused have the right to make a speech to the jury to indicate the points they wish the jury to consider in reaching their verdict.

What does the Judge do?

It is now that the Judge performs a most important function. No matter how much attention the jury have paid to the evidence which has been given and to the points which have been made, they cannot come to any worthwhile decision lacking knowledge of the law. It is the duty of the Judge to provide guidance on this. In what is known technically as the charge or "summing up", the Judge will, if this has not already been done, explain the separate functions of Judge and jury. It will be explained that the Judge is the sole authority on the law, and only the jury can decide the facts.

In addition to giving to the jury directions on matters of law which arise in the particular circumstances of the case, the Judge will remind them of the rules of criminal law which govern all trials. These include the following:

1. Every person who is accused of a crime is presumed innocent until guilt has been proved. The accused does not require to prove anything. It is for the Crown to prove guilt. The standard of proof which the law demands is not merely that the possibility or even probability but proof beyond reasonable doubt. If, at the end of the day, any such reasonable doubt remains in the minds of the jury the benefit of that doubt must be given to the accused and the accused cannot be found guilty.
2. Apart from a few statutory exceptions an accused cannot be convicted on the evidence of a single witness no matter how credible that witness may be. What is required by the law is proof of guilt by corroborated evidence, and the Judge will explain where, in the evidence led in the particular case, corroboration may be found.
3. What facts the jury must hold proved before they can be satisfied that

- (a) the crime libelled has been committed, and
- (b) it was committed by the accused.

How does the Jury work?

After the Judge's summing up the jury will retire to consider their verdict. The first thing they should do is to appoint from their number someone to chair the discussion and act as spokesperson. The jury's task is to weigh the evidence of the witnesses. They must decide whom they believe and whom they do not believe. They may believe a witness wholly, or in part, or not at all. They must then consider only the evidence which they believe and must disregard what they do not believe. They must bear in mind the directions given by the Judge on the need for corroboration.

The jury will give their decision in the case by returning what is known as a verdict. There must be a verdict on each charge (if more than one) and against each accused (if more than one). Although there are three verdicts open to the jury - guilty, not guilty or not proven - their fundamental choice is to decide whether or not the Crown has established, beyond reasonable doubt, that the charge before them was committed by the accused. If that is the case then a verdict of guilty can be returned either unanimously or by a majority. However if the jury wish to return a majority verdict of guilty there must be at least eight of their number in favour of that verdict. If the jury are not satisfied that the guilt of the accused has been established (or the facts of the case have not been proved), then a verdict of not guilty or not proven should be returned. Either of these verdicts can be unanimous or by a majority and will result in the acquittal of the accused. If the majority are for acquittal, the jury should then decide whether to return a verdict of not guilty or not proven.

**The effect of these two verdicts is the same,
the accused is acquitted of the charge for all time.**

On returning to court the verdict will be taken by the clerk in response to questions put to the jury's spokesperson. The verdict has then to be entered in the court record by the clerk; this may take some time. In the event of acquittal, the accused will be dismissed from the dock. In the event of conviction, the jury will require to remain in their place until sentence is pronounced by the Judge.

When the verdict has been recorded and the case disposed of, the jury will normally, but not always, be discharged from further attendance at that sitting, and a member of staff will be in attendance to assist in completion of any claim for travelling expenses and compensation for loss of earnings.

Secrecy

Once a trial has begun no member of the jury must discuss the case with anyone except fellow jurors and then only in the jury room. It should be remembered that it is a contempt of court, punishable by imprisonment or a fine, for a juror to discuss any particulars of statements made, opinions expressed, arguments advanced or votes cast by members of a jury in the course of their discussions even after the trial has ended. It is also a contempt of court for any person to solicit from any juror such information.

It is hoped that this leaflet will be helpful and that you will find that the time you have devoted to service to the community has been rewarding.