

# Preparing for your Crown Court trial

## WHO IS WHO IN COURT?

**DEFENDANT** – you will be referred to as the ‘defendant’ throughout the proceedings, i.e. the person charged with a criminal offence. You will sit in ‘the dock’ during court hearings and may have a security officer sitting next to you.

**JUDGE** – the judge will ensure the trial proceeds fairly. They decide questions of law, and if you plead guilty or are found guilty, will decide sentence.

**DEFENCE BARRISTER OR HIGHER COURT ADVOCATE\*** – they will represent you in court and ask questions on your behalf. Barristers are often referred to as ‘Counsel’.

**PROSECUTION BARRISTER OR HIGHER COURT ADVOCATE\*** – they will represent the Crown Prosecution Service. They will present the case and ask questions for the prosecution. They are independent of the police.

\*For simplicity, we will just use the term barrister for these people.

**COURT CLERK** - they normally sit in front of the Judge and keep a record of what is decided.

**USHER** - the usher will ensure everyone is where they are supposed to be in the court room.

**WITNESSES** – witnesses give evidence at a trial. They can be for the prosecution or defence.

**JURY** – the jury is made up of 12 randomly chosen independent members of the public. They will hear the evidence and decide whether you are guilty or not guilty. The jury will take an oath promising to give the defendant a fair trial.

There may be other people in Court too.

We may have a clerk from our office attending some of your hearings. They will sit behind your barrister and be present to take a note of the proceedings.

There may be members of the press in the press box.

There is also a public gallery and so your family or friends may attend your hearings. Also present may be members of the alleged victim’s family, or simply members of the general public. Court proceedings are public hearings and so anyone is able to attend.

## PRESS AND MEDIA

It is difficult to know whether the press will be interested in your case, but they are permitted to publish information about what is happening in court including your name and the street name of your address.

Photography is not allowed in the court building. You should be aware that the press may take photographs as you are arriving or leaving the court building.

The court may make reporting restrictions to protect a witness or to ensure a fair trial. Everyone is included in reporting restrictions and you should not break a restriction, which includes making comments on the internet or social media.

## PRE-TRIAL

We will arrange conferences with your barrister at appropriate times. These conferences could be at their chambers, our office, via telephone, via zoom or at Court. It is important to attend so that we can properly prepare your case and comply with any deadlines.

You will need to tell us about any potential defence witnesses or documents which you seek to rely on in your defence. In respect of defence witnesses, you will need to provide us with their names and telephone numbers so we can make appointments to take statements. The purpose of these statements is to see what the witnesses have to say. The statements are then sent to barrister and if they think that witness could be helpful, they may be required to attend court in person to give that evidence. The statements themselves are not admissible in court.

IF YOU ARE LIKELY TO HAVE ANY FAMILY CALLING US FOR INFORMATION ON YOUR BEHALF, YOU MUST CONTACT US YOURSELF FIRST AND PROVIDE EXPRESS CONSENT FOR US TO DISCUSS YOUR CASE WITH THAT PERSON. A NOTE OF THESE CONSENTS WILL BE MADE ON YOUR FILE. OTHERWISE, WE ARE BOUND BY THE RULES OF CONFIDENTIALITY AND WILL NOT DISCUSS YOUR CASE WITH ANY OTHER PERSON.

## TIMING OF YOUR HEARINGS

The day before any hearing, you should contact our office at 4.30pm so you can be informed what time your case is listed and which court room it will be held in.

It is important to note that on the day of trial there may be a lot of waiting, particularly if your case is listed as a floater trial.

‘Floater trials’ are trials which do not have a fixed court room or Judge. Many trials cannot proceed on the date they are supposed to for a variety of reasons. When this happens, the court room they were supposed to be heard in becomes free. One of the floater trials will then be called into that court to save the court room and judge sitting free all day. However, if the

fixed trials do proceed as planned, there would be no court room available and your trial may have to be adjourned to a later date. The court is unlikely to release you from waiting until late in the day, just in case a court room does become free. Whether your case is listed as a floater depends on the seriousness of the offence, the age or vulnerability of any witnesses and the length of time your case has been before the courts. It is not something we have control over and is a matter for the court.

However, if the trial is fixed for a certain date, you are allocated a specific court room and judge which gives your trial a better chance of going ahead. However, this does not account for issues in your case or with the court which may mean the trial has to be relisted.

The court will break for lunch at around 1pm but you may not be allowed to leave the court building during this time, to avoid the risk of bumping into the jurors and witnesses. This would be a temporary bail condition put in place whilst the trial is ongoing. There is a cafeteria on the second floor in the court building or you can bring yourself a packed lunch.

At the end of the day, you may also have to stay in the court building for a set period, to allow the jury and witnesses to leave.

## IF AT RISK OF REMAND

The judge can withhold bail and decide to remand you in custody at any time, for example:

- If you are found guilty and the court is likely to impose a prison sentence
- If you breach your bail conditions
- If you are accused of interfering with prosecution witnesses or the jury
- If you do not come to court on time or in a fit state to appear in court

In any case, it is always important to arrive to your hearings fully prepared and that includes packing a bag for prison in case you are remanded. This can even happen throughout trial as there could be a last-minute change in plea which could mean that the case is dealt with the same day.

Our advice is that at the very least, you bring with you any prescribed medication with your name on the label, a list of important telephone numbers that you would want if in custody and cash so that you can purchase items or phone credit.

It is very important to note your prison number once received as you will need to provide it to your friends and family as they will need this to send money and to book prison visits. If you have previously been in prison, your prison number will be the same as before.

In practice Judges will rarely remand defendants in custody following a guilty verdict unless the offence is particularly serious and a sentence of many years' custody is inevitable.

FOR FURTHER INFORMATION ON WHAT YOU CAN AND CANNOT TAKE INTO PRISON, PLEASE REQUEST A COPY OF OUR ADVICE LEAFLET FOR THOSE AT RISK OF AN IMMEDIATE PRISON SENTENCE

# WHAT HAPPENS AT YOUR TRIAL?

## 1. PRE-TRIAL PROCEDURES

Before the jury is brought into the courtroom, there are often some preliminary legal submissions that need to be made to the judge by the prosecution and defence barristers regarding how the trial will proceed. Some of the legal arguments that are made may include how the case is to be presented or an application by the defence to exclude parts of the prosecution evidence or witnesses. The judge will make these decisions.

## 2. JURY IS SELECTED

You should be aware that members of the jury will be watching you from the moment they enter the court room. Your behaviour should always be appropriate.

Twelve jurors will be selected. Sometimes, there will be several more alternate jurors in the event that any of the original twelve jurors cannot continue the case due to a family emergency or illness. This is done to ensure that the case will still be able to proceed.

Potential jurors are advised of the names of the defendant and witnesses to the case to ensure that none of the jurors have prior knowledge or a close relationship with them – or anyone else who might be close to the case (a relative of a witness, for example). If a potential juror does have a close connection with someone involved in the case they will be excused. The barristers are both allowed the opportunity to challenge jurors if there is good reason to do so, and if the challenge is valid, the judge will excuse the potential juror. The grounds you can use to challenge a juror are generally restricted to situations where the potential juror knows one of those participating in the trial or their job may give them knowledge about something related to the trial. You cannot object to a juror simply because you do not think they would be good for your case.

Once twelve jurors are selected, each juror is then sworn in by oath or affirmation, promising to ‘faithfully try the defendant and give a true verdict according to the evidence’.

The judge will then instruct the jury, advising them that they will decide the case based upon the evidence presented to them in the court proceedings. They are told that they can discuss the case among themselves but not with anyone else who is not on the jury. Jurors are not allowed to search for anything to do with the case on social media or the internet, nor are they allowed to speak to anyone outside of court to obtain information about the case or contact witnesses. Jurors are made aware in advance that if they do any of these things they can face prosecution themselves. This is called being ‘in contempt of court’.

## 3. PROSECUTION OPENING SPEECH

The trial commences with the prosecution barrister giving their opening speech. They will explain what the case is about, including the charges you face and what evidence is to be presented. At the end of their opening speech, the jury should have a clear understanding of

what the case is about and what the key issues are. The prosecution barrister will also hand a copy of the indictment to the jury. An indictment is a document that contains the counts or charges that the defendant is facing.

#### **4. DEFENCE STATEMENT**

After the prosecution has completed their opening speech, your barrister is given the opportunity to address the jury to set out the issues in your case. This is to assist the jury in understanding what part of the allegation you dispute. There isn't always a need for a statement of issues to be made by the defence if the prosecution has already set out the issues clearly, but this is a common thing to expect.

The judge will then provide further assistance to the jury by informing them about the relevant law and any legal issues they might expect to hear about.

#### **5. PROSECUTION CASE**

The prosecution will present their case to the court by calling witnesses who will be under oath to tell the truth. The first witness will be called, sworn in or affirmed, and then they will be asked questions to allow them to give their evidence. This is called 'examination-in-chief'.

Documents, pictures, or videos can also be shown to a witness for identification or clarification.

With each witness, after the prosecution has completed their questions, the defence is allowed to ask their own questions (known as 'cross-examination'). During cross-examination, your barrister will try to put your version of events to the witness.

If a witness is fearful of giving evidence, they may be allowed to give their evidence remotely (via video link in the courtroom) or behind a privacy screen. These are known as 'special measures' and are very common in many types of cases. We can object to such special measures but in practice, barristers seem to find that juries respond better to witnesses who come into court personally and so having them appear on a video link may in fact be in your favour. The jury would be directed by the judge not to draw any inferences from the fact they are not appearing in the normal way as these are common measures.

Witnesses are usually excluded from the courtroom before giving their evidence so that they are not influenced by anything they would hear. Once a witness has completed giving evidence, they are allowed to remain in the courtroom to watch the trial if they so wish.

Once cross-examination has been completed by defence, the prosecution can ask more questions to cover any issues arising from the defence barrister's line of questioning. This is called 're-examination'.

Once the prosecution has completed their case, they will state to the judge something along the lines of "That's the case for the Crown" and then sit down.

## 6. DEFENCE CASE

Once the prosecution case has completed and all their evidence presented, the defence barrister can call their own witnesses or evidence.

If you, as the defendant, wish to give evidence, you will be first. You should discuss with your barrister if you wish to give evidence or not. If you do not give evidence, you cannot be cross-examined by the Crown. The jury will of course be aware of this though, and could draw an inference from your refusal to give evidence in your own case.

In your examination-in-chief, your barrister will ask questions so that you can include everything you want to in your evidence. The prosecution will then ask you questions in cross-examination. If required, your barrister can then ask you further questions in re-examination to clarify any issues raised by the prosecution questions.

Whilst you are in the process of giving your evidence, your barrister and legal team are not permitted to speak to you, even if there are breaks (which could be overnight).

Any other defence witnesses will follow in the same way, until the defence case is complete.

## 7. CLOSING SPEECHES

The prosecution will give their closing speech by summarising the facts of the case and why you should be found guilty.

Once complete, it is your barrister's turn. Your barrister will set out the reasons why you should **not** be found guilty, pointing out any weaknesses in the prosecution case and reminding the jury of the burden and standard of proof, i.e. that it is the Prosecution's job to prove the case against you beyond reasonable doubt.

## 8. JUDGE'S SUMMING UP

The judge will instruct the jury as to the law on the case and what the prosecution have to prove. The judge will give the jury specific directions that they must follow in order to come to a verdict. After the judge has instructed the jury, he or she will summarise the case for the jury so that it is fresh in their minds when they retire to deliberate (when they leave the courtroom to come to a decision in private). The judge will also ask the jury to appoint a foreperson and tell them that they must reach a unanimous decision on each count of the indictment.

## 9. VERDICT

There is no time limit for a jury to reach a decision. The jury will be told to reach a unanimous decision, on which they all agree.

If the jury cannot reach a unanimous decision, after what is considered a reasonable amount of time, the judge can make a 'majority direction'. If all 12 jurors are still sitting, at least 10 of them must agree for a majority verdict.

If the jury still cannot agree, this is known as a 'hung jury'. The prosecution will then have to decide if they wish to have a second trial.

If the decision of the jury is that you are not guilty, then you are free to leave the court and the case is at an end. Any bail conditions you were subject to would cease to apply.

If you are found guilty, the judge will proceed to sentencing. Sentencing can occur as soon as the verdict is reached or it may be adjourned to a separate hearing. If you are found guilty of a serious offence for which immediate custody is inevitable, it may be that the Judge remands you in custody pending your sentence hearing, even if you have been on bail without issue throughout the proceedings.

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