



# Criminal Proceedings In The Magistrates Court

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*The Magistrates Court is the first stop for people who have been charged with a criminal offence. The functions of a Magistrates Court include hearing and deciding minor criminal matters, as well as deciding which cases ought to be sent to a higher court. This brochure explains the normal progress of matters which are determined in the Magistrates Court.*

## Mentions

Criminal matters in the Magistrates Court are periodically reviewed by a Magistrate to ensure they are progressing. These reviews are called "mentions", and occur every few weeks. They are usually very brief. The date of the first mention is determined by police when charging a person with an offence. A matter can often be mentioned a number of times prior to it being finalised by way of a hearing, or plea of guilty.

Often, you will need to appear personally in court when your matter is being mentioned. If you are required to appear and fail to do so, the Court can issue a warrant for your arrest, or in some instances, decide the matter in your absence. In some cases, you may not need to appear yourself if you are legally represented. We will discuss that with you as your case proceeds.

## Guilty or Not Guilty

Having been charged with a criminal offence, you will have to decide whether to plead guilty or not guilty.

This is your decision, and we recommend that this decision be made after receiving advice from us.



Our advice will be based on your instructions relating to the charge and after a review of the Prosecution case against you.

If you intend to plead guilty, we can arrange for a "sentence" (or "plea") to take place in the Magistrates Court. This can sometimes be done at your very first court appearance.

If you are pleading not guilty, the matter will be determined by way of a "summary hearing", where witnesses are called, questioned and examined, and the matter argued fully.

There is no jury in the Magistrates Court - it is always the presiding Magistrate who determines all issues. The case against you will normally be conducted by police prosecutors (called the Prosecution).

Depending on the nature of the charges, and the facts and circumstances of your case, you may be entitled to seek to have the matter resolved out of court, by a formal mediation or diversion process.

There are a number of things to consider when deciding whether to plead guilty or not guilty. For example, as a general rule, the Magistrate may reduce or 'discount' a sentence to reflect the co-operation associated with a plea of guilty.

Such a discount might also be allowed to reflect any evidence of remorse or steps taken to make good any damage.

It is not automatically applied in every case however - it is a matter for the court to decide on the facts of each matter.

## How long will this take?

Some matters in the Magistrates Court can be dealt with very quickly. Pleas of guilty can often be finalised at the first mention. In such cases the Prosecution will normally rely on a brief summary of the allegations put together by the arresting police officer.

If you elect to plead not guilty, a summary hearing is usually set down to take place some months after you are charged. This time is required to allow for preparation, and for witnesses to be notified. The Prosecution has to provide to us all witness statements in advance. We are also required to confer with the Prosecution during the progress of this matter to see if any issues can be resolved.



### Will my Legal Expenses Be Reimbursed If I am found not guilty?

The general principle of the criminal law is that there is no entitlement to compensation or reimbursement even after being found not guilty. (Likewise, you usually do not have to pay court costs or the legal fees of the prosecution if you lose).

In some circumstances however, a Magistrate can award limited costs to you after a summary hearing.

There are a number of factors the Magistrate must take into account, and such awards are not made automatically.

Even if costs are awarded in your favour, they will often not compensate you for the **full** cost of your legal representation.

### Will I need a Barrister?

Barristers are lawyers who specialise in the presentation of oral arguments in court. Their expertise is in the area of advocacy and the rules of evidence. In contested matters, such as a full hearing, it is often desirable for a person facing a criminal charge to be represented by a barrister (after we have properly conducted the investigations and preparations required).

In many cases however, it is common and most cost-effective for solicitors to both prepare and present the case in court. The desirability and cost of using a barrister is a matter we will discuss with you in advance.

## Other Questions?

We realise that facing a criminal charge, large or small, is one of the most stressful, and often frightening times in a person's life. The court system is complex and sometimes confusing. We will do all we can throughout your matter to explain things as clearly and concisely as possible, and you should feel comfortable in raising with us at any time any questions you may have.

- "What are my chances?"
- "Should I just plead guilty?"
- "Will I go to jail?"
- "Can I appeal if I don't like the result?"
- "Will I get a criminal record?"



**Please note: this publication is designed to provide a simple overview and should not be relied upon instead of legal advice.**