

Dunn & Baker

INFORMATION REGARDING INDICTABLE ONLY OFFENCES

1. Type of case

Your case is one which must be dealt with, as a matter of law, at the Crown Court, and is known as an "indictable only" case.

2. Time Scale

On the first hearing date, the charge will be read out, but you will not normally be required to enter a plea. The Magistrates are then required to send the case to the Crown Court, and the second hearing will take place in the Crown Court, when directions will be given by the Judge with regard to disclosure of evidence. This second hearing must take place within 8 days if you are in custody, or within 23 days if you are on bail. It will be possible to apply for bail at both the Magistrates Court and Crown Court. Once the evidence has been disclosed, the case will be listed for a plea and directions hearing. If you are pleading not guilty, the case will then go into the listing system and will normally be listed for trial within 8 to 12 weeks.

Where a guilty plea has been entered, the Judge may sentence there and then, or he may decide that a pre-sentence report should be obtained and the case will be adjourned for this purpose for a period of four weeks. Pre-sentence reports are prepared by Probation Officers and will set out the your background and the type of sentence which they consider would be most suitable.

Where you are facing both indictable only offences and each way offences (i.e. offences which can be dealt with either in the Magistrates Court or the Crown Court), and the indictable only matters are withdrawn or you are acquitted, it will be necessary for the Crown Court to hold a plea before venue hearing in relation to the each way offences, and if a not guilty plea is entered, to consider whether the trial should be held in the Crown Court or the Magistrates Court. If they decide on the latter, or if there are summary only offences remaining (i.e. which can only be heard by a Magistrates Court), then the case will be returned to the Magistrates Court for trial.

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3. The Magistrates Court

a) Arriving at Court

You should arrive at Court at least 15 minutes before the hearing time and should report to the Court Usher at the Reception Desk on arrival, otherwise the case may go ahead in your absence, or other cases may be taken in its place.

Court Ushers usually wear black gowns so that they can be easily recognized. They can answer queries, e.g. where to wait, identifying solicitors, and are also responsible for telling Defendants when it is time for them to go into the courtroom.

b) At the hearing

You must always stand (unless physically disabled) when the Magistrates come in or go out of the courtroom, as a mark of respect. Similarly, you must stand when the charge is read out. You should also stand up when spoken to or when wishing to speak, as this will mean that the Magistrates will give you their full attention. When speaking, you should face the Magistrates and speak directly to them, and, if possible, also speak loudly enough for everyone in the room to be able to hear. The Magistrates should be addressed as "Sir" or "Madam".

The Court Clerk will introduce the case to the Magistrates and will read out the charge(s). He/she is also there to advise the Magistrates on points of law, and to advise Defendants who are not represented by a solicitor. The representative from the Crown Prosecution Service is responsible for presenting evidence that the offence has been committed by the Defendant.

c) The Youth Court

The Youth Court deals with children and young people under the age of 18. The public are not allowed into this Court, although members of the Press may be present. However, the Press are not allowed to reveal the names and addresses of young people coming before the Court, unless specific permission is given by the Magistrates. If you are aged under 18, an "appropriate adult", e.g. parent, guardian etc., is expected to be present to help explain to you what is happening and to give information to the Court, if necessary, about you.

4. The Crown Court

In the Crown Court, unless your solicitor has obtained the rights of audience in the Higher Courts, it will almost always be necessary for you to be represented by both a solicitor and a barrister. The solicitor is responsible for taking your instructions and briefing the barrister. The barrister will advise on specific matters, e.g. plea, and will represent you in Court. If your case is a complicated or particularly serious one, then you are likely to meet the barrister "in conference" prior to attending at Court, but otherwise, it is quite usual for the first meeting with the barrister to take

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place on the date of the hearing. The barrister will have been fully briefed by the solicitor beforehand. Every effort will be made to ensure that the same barrister represents you throughout, although this may not always be possible due to the listing procedure in the Crown Court. Where it is necessary to change the barrister prior to a hearing, you will be told.

a) Arriving at Court

You will be told at what time to arrive at Court. Please ensure that you arrive in plenty of time because the barrister will probably wish to discuss the case with you prior to the hearing. You are likely to have to wait around at Court for some time as a number of cases are given the same hearing time and are then called on one by one.

b) At the hearing

Once inside the courtroom, you will be asked to go into the dock. You must always stand (unless physically disabled) when the Judge comes in or goes out of the courtroom. Similarly, you will be asked to stand when the charge is read out, and when the Judge addresses you. If it is necessary for you to give evidence, you will be asked to go into the Witness box.

The Court Clerk will put the charge to you. The Crown Prosecution Service will have instructed a barrister to present the case against you, and there will be a barrister instructed to represent you. They are responsible for putting forward the evidence, questioning witnesses and, if necessary, putting forward mitigation on your behalf before sentence. There will only be a jury present if the case goes to trial.

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