



Most criminal trials take place in a Magistrates' Court, but more serious cases are dealt with in the Crown Court before a Judge and jury (of 12 men and women).

In the Magistrates' Court it is the Magistrates who decide whether the person accused of the crime (the Defendant) is guilty or not, and if the Defendant is found guilty, they also decide on the sentence. The Magistrates are usually three Justices of the Peace chosen from the local community, but there may sometimes be just one Magistrate who is a lawyer (known as a District Judge).

In the Crown Court, the jury decide on the Defendant's guilt, and the Judge decides on the sentence.

THE TRIAL

- At the start of the trial, you will be asked to go into the dock.
- The Clerk will read out the charge(s) and you will be asked how you plead.
- If the case is in the Crown Court, the jury will then be brought in and you will have an opportunity to say if you know any of them, or object to any of them. They will then be sworn in. The jury have their own Usher, who looks after them throughout the trial, and he/she also takes an oath.
- If there are any legal points which the barristers wish to raise, they now do so. The jury will normally be sent out whilst the legal arguments take place.
- Once the trial starts, the Prosecution representative makes a speech in which he describes the offence and the evidence which is going to be given by the Prosecution witnesses. He also explains to the jury in the Crown Court the burden and standard of proof, i.e. what the Prosecution has to prove in order for them to find the Defendant guilty, and the fact that it has to be proved beyond all reasonable doubt.
- He then calls the Prosecution witnesses to give evidence. Each witness will firstly be asked questions by the Prosecution and then may have to answer questions from the Defence (cross-examination). Following the cross-examination, the Prosecution may ask further questions.
- Sometimes an agreement has been reached between the Prosecution and the Defence that certain witnesses need not attend Court, but their statements will be read out. This is where the evidence which is being given by those particular witnesses is agreed by the Defence, e.g. details of the Defendant's arrest, medical details.
- Once the Prosecution witnesses have finished giving evidence, there is an opportunity for the Defence to ask the Magistrates/Judge to find that there is no case to answer. If the Magistrates/Judge agree, then the case will be dismissed at this stage. The jury in the Crown Court are not in the courtroom whilst these arguments take place.

- If the case is not dismissed, then it is the turn of the Defence to put forward their Defence. If the Defendant is the only witness to be called, then the Defence lawyer cannot make an opening speech, but must call the Defendant straightaway. If there are other Defence witnesses, then he is entitled to make a speech, outlining the defence which is going to be put forward by the witnesses. He then calls the witnesses and questions them. The Prosecution lawyer may cross-examine the witnesses and the Defence lawyer may then ask further questions.
- When all witnesses have been heard, the Prosecution lawyer makes a 'closing speech', summing up all the evidence which has been given and trying to persuade the Magistrates/jury to find the Defendant guilty.
- The Defence lawyer then makes his closing speech.
- In the Crown Court, the Judge will then 'sum up' the case for the benefit of the jury. The summing up normally consists of directions on the law and a summary of the evidence.
- The jury/Magistrates will then retire to consider whether to find the Defendant guilty or not guilty. Magistrates are allowed to ask the Clerk to join them in order to advise them on points of law, but he must not advise them about the facts of the case.
- The Magistrates/jury give their verdict. If the Defendant is acquitted, that is the end of the matter. If they have found the Defendant guilty, then he may be sentenced there and then, or, as is more usual, the case may be put off to another date for sentencing to take place.

WHEN YOU GIVE EVIDENCE

- When you are called to give evidence, you will be shown into the Witness Box. You should stand up, but if you find this difficult, e.g. you are disabled, you can ask to sit down. You will then be asked to take the oath, that is to swear to tell the truth on the Bible or Holy Book of your religion. You may, if you prefer, affirm, which is a promise to tell the truth. If you want to do this, you should tell the Usher when you are in the Witness Box, or before you go in. The Usher will hand you a card with the appropriate words, for you to read aloud.
- You will be asked questions first by the Defence lawyer, who will take you through the evidence that you have given in your statement. Then the Prosecution will be able to ask you questions (this is called cross-examination). When the cross-examination has finished, the Defence may ask you further questions, to clear up any matters which have come out in cross-examination. A Magistrate, the Clerk or the Judge may also ask you questions. In a Crown Court trial the jury can write down questions, which are passed to the Judge, who will then ask the questions for them.
- Try to speak slowly and clearly and take your time about answering.
- Make your answers as brief and simple as possible.
- If you are not sure of anything, say so. Do not guess.
- If you don't understand or can't hear the question, ask for it to be repeated.
- You may ask the Magistrate or the Judge for advice, if necessary.

- The Magistrates and the jury won't have known anything about the case before the trial started, so you should take care not to leave anything out of your evidence
- The Magistrates and the jury may well know nothing about your background and any previous convictions you may have, so it is important that you do not mention anything about your past behaviour at all, whether good or bad.
- Whilst you are giving oral evidence, you must not discuss your case with anyone else. This means that if the court takes a break part of the way through your case, you must not be seen to talk to anyone except your own advocate. This guards against any accusation that you have told other witnesses what to say, or that other witnesses have told you what to say.
- For further information concerning giving evidence as a witness in a criminal court, we would refer you to **Fact Sheet 10**.

Dunn & Baker - Here to help you

Disclaimer: The material contained in this fact sheet is for general guidance only. It is specific to the law of England and Wales, and represents a brief outline of the law current as at the date of the fact sheet. It is not intended to constitute, or to be a substitute for, legal advice specific to your case. Dunn and Baker will be responsible only for advice specifically given to you.