

## **Criminal Proceedings In The Magistrates Court**

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 and you need to be personally present in court at that time. If you are legally represented you may not have to appear at some later mentions. A matter can often be mentioned a number of times prior to it being finalised by way of a hearing, or plea of guilty.

### **Guilty or Not Guilty**

Having been charged with a criminal offence, you will ultimately have to decide whether to plead guilty or not guilty. This decision will be made by you after receiving detailed advice from us. We will help you make the right decision by giving you clear, concise advice. If you intend to plead guilty, we can arrange for a "sentence" (or "plea") to take place in the Magistrates Court. 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 "prosecution" will normally be conducted by trained police prosecutors.

### **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 prosecutor normally just relies on a brief summary of the allegations put together by the arresting police officer. On the other hand, a full hearing is usually set down to take place 3 to 4 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 the defence all witness statements in advance.

### **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 in the Magistrates Court however, it is common and most cost-effective for solicitors to both prepare and present the case in court. At Gilshenan and Luton, our solicitors have significant experience in successfully arguing and presenting cases in court. The desirability and cost of using a barrister is a matter we will discuss with you in advance.

### **Can I Be Reimbursed if I Win?**

Usually not. The general principle of the criminal law is that persons are not entitled to compensation or reimbursement for proving themselves not guilty. The policy behind this reasoning is that to compensate parties found to be not guilty would act as a deterrent to police in charging people, and would hinder the execution of the criminal justice system. In special circumstances however, a Magistrate has power to award costs to you after a summary hearing. There are a number of factors the Magistrate must take into account, and such awards are not routinely made.

Likewise, you generally do not have to pay court costs or the legal fees of the prosecution if you lose. There are some exceptions to this however. If you are charged by way of summons (a court document directing you to appear in court), you may have to pay the cost of taking out the summons. There may also be a costs order against you if your case is successfully prosecuted by a government department, rather than the police.

### **Further information**

Gilshenan & Luton is renowned for its expertise and experience in criminal law and related matters. For further information, feel free to contact:

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

