

## **GUIDE TO APPEARING IN THE MAGISTRATES' COURT**

The prospect of appearing in a Magistrates' Court can be daunting. There are rules and procedures which can be confusing or even intimidating to a client or outsider.

This is intended to give you some helpful basic advice as to what is likely to happen when you appear at Court.

### **GENERAL INFORMATION**

Most traffic offences will be dealt with in the Magistrates Court. More serious offences may be referred to the Crown Court. Magistrates cannot order sentences of imprisonment that exceed 6 months (or 12 months for consecutive sentences), or fines exceeding £5000.

A Magistrates' Court is the lowest level of Criminal Court in England and Wales. It is usually presided over by 2, or more usually 3 Magistrates, or sometimes by a single District Judge. Unlike Judges, Magistrates are usually laypeople who are not legally trained.

Magistrates and District Judges are always assisted by a professional Legal Adviser. It is the Legal Adviser's role to ensure that procedures are adhered to and that the Magistrates are properly directed as to the law and their powers, as well as to see that the Court's business is dealt with efficiently.

The Legal Adviser must not exert any influence upon the Magistrates or Judge. For this reason, the advice they give should be given in open Court.

When addressing a Bench of Magistrates, you will hear advocates refer to them as "your worships". If speaking to a Magistrate or Judge you should really call them 'sir' or 'madam', as appropriate. You should always dress smartly for any Court hearing. This will show that you respect the Magistrates and that you are taking the matter seriously.

### **BEFORE COURT - THE SUMMONS**

#### **OFFENCES**

As a defendant, the first notification of a hearing you will usually receive from a Court is known as a Summons. This will inform you of when and where your case is to be heard and will state the offences you are charged with.

#### **PROSECUTION COSTS**

The Summons may also detail the amount of costs the prosecution are asking for in respect of preparing their case against you. These can range

significantly depending on the amount of work involved and who is prosecuting. If it is a relatively common offence such as speeding in a car, the costs are likely to be around £35-70. If the offence is more serious or was committed in a larger vehicle, the costs may be a few hundred pounds. If you are prosecuted by VOSA (Vehicle and Operator Services Agency) costs may be a lot higher, say £300-500.

## **STATEMENT OF FACTS**

The Summons sometimes includes a statement of facts which outlines the circumstances in which the offence occurred and this is usually read to the Court.

## **PLEA FORM AND STATEMENT OF MEANS**

Following on from this is the standard documentation from the Court informing you of your options: ie: to plead guilty by post or in person, or to plead not guilty. We can advise you of the best option for you. Depending on the circumstances, the Court may require you to attend and therefore it will not be possible to plead guilty by post.

In addition, the statement of means needs to be completed by you ahead of the hearing if possible. This allows the Court to look at your income and outgoings and ensure that any financial penalty they impose is proportionate to your ability to pay.

**If you require our assistance it is vital that you contact us as soon as possible after receiving the Summons so we can take your instructions while events are fresh in your mind and advise you as to your case. This will ensure we have adequate time to prepare your case, in an effort to achieve the best possible outcome for you.**

## **ARRIVING AT COURT**

We will advise you of what time you will need to meet us there. By this stage we will already have most of your case prepared but there are usually a few matters to be finalised. Usually we will need to meet you around 15-30 minutes ahead of your hearing time.

When you arrive at Court, you should go to the enquiries counter / reception desk and tell them your name and that you are a defendant. The Court Officer will tell you which Court your matter has been allocated to. Please check in which Court you are to appear. There are also Court-lists posted on notice boards, usually in the main foyer or you may ask at the enquiries office. You can then go and find that Court and wait outside. We will meet you outside the Court. If you arrive before us, it is a good idea to let the usher (the person walking around in a black gown outside the Courtroom) know that you are

there. If you cannot find them, don't panic as we can do this for you when we arrive.

Often the Courts list all morning hearings for the same time say, 10.00am, and all the afternoon hearings for say, 2.00pm. The Court will not know who will turn up on the day and so there are often more cases listed than the Court has time to hear. Once the Court knows who is in attendance, the Legal Adviser will determine the order for the cases to be heard. There is no set rule for this but usually the Court will allow defendants who have legal representation to have their cases heard first. The Court also generally hears the more straightforward cases earlier on.

Although we always do our best to get heard quickly, there are no guarantees and therefore you should expect to have to wait around outside the Court for a while. It is a good idea not to stray too far away from this area as you can be called into Court at any time.

We will find a quiet place to finalise matters with you ahead of the hearing. Often the Courts have special interview rooms that can be utilised. We can then run through your case and advise you of what we are preparing to say on your behalf, what you will need to do, and what you are likely to be asked.

Please do not bring children to Court with you. Only babies and children over 14 years old are allowed into the Court. There are no staff who can look after them. If you need to arrange childcare for your hearing, do so as soon as possible.

Most Courtrooms have a seating area or gallery for the general public. If you are accompanied by a friend or family member it will sometimes be possible for them to sit in Court. Please let us know if you wish for this to happen.

**If we have asked you to bring your Driving Licence to the Hearing please remember to bring it with you. (If it is a photo-card Licence, please ensure you bring both parts).**

## **IN THE COURTROOM**

Once we are content that we have discussed all relevant matters, we will advise the Court usher that we are ready to go into Court. We will go and take our seat in Court and you will be asked to wait outside. The Court usher will then come and collect you when your case is to be heard.

The usher will show you where to stand. (As a rough guide, please see the example Courtroom layout included in this document. You should however note that all Courts differ slightly). The Legal Adviser will announce the case and you will be asked to confirm your name, address and often your date of birth. You may also be asked to indicate whether you are pleading guilty or not guilty. If you are pleading not guilty, the Court will fix a date for a trial. If

you are pleading guilty, you will be asked to take a seat whilst the Prosecutor outlines the facts of the case. If you need more time to take legal advice and it is the first hearing date, it is usually possible to get the case adjourned for a couple of weeks.

If you are pleading guilty, we will address the Court and put forward a strong plea in mitigation on your behalf. Depending on the type of case, you may have to go into the witness box to give evidence. When we initially advise you, we will inform you of whether this is likely to happen.

Once you are in the witness box you will be asked to swear on The Bible (or the relevant book of your faith) or take an oath if you prefer. We will then lead you through a series of questions which we will have discussed with you. After this, the Prosecutor may have some questions for you. This can be quite nerve-wracking and we will try to prepare you for the type of questions they are likely to ask. The Magistrates may also have their own questions for you.

**It is important that you try to stay calm, think through your answers, and do not get aggressive or agitated by any questioning.**

Always speak clearly and address your answers to the Magistrates. Once the Prosecutor has finished questioning you, we will have another opportunity to ask you anything further if necessary. You will then be asked to take your seat again.

## **THE DECISION**

The Magistrates will take some time to consider their decision. Quite often they will leave the Courtroom to do this, but sometimes they make the decision whilst in the room. Sometimes they may take quite a while to make a decision and sometimes they may call the Legal Adviser in to help with any legal points arising or the calculation of fines.

The Magistrates have a special set of guidelines which inform them of the level of penalty to impose in particular circumstances. However, often with careful mitigation we can persuade the Magistrates to move away from their guidelines and to impose a lesser penalty than prescribed. If they choose to move away from their guidelines, the Magistrates must give good reasons. Our knowledge and experience means that we are best placed to understand what factors may encourage the Magistrates to impose a lesser penalty. Of course, we can only do our best and the decision is largely dependent on the Magistrates' own views of the case.

**When the Magistrates have made a decision, they will come back into Court. At this point, you should remain standing for the Magistrates to address you (although the rest of the Court will sit down).**

The Magistrates will tell the Court their decision and will often mention particular factors they have taken into account. They will state what penalty

they are going to impose on you including for many driving offences any penalty points to go on your licence, any period of disqualification and any financial penalty. In addition, there may be an order made that you pay the prosecution costs. There is also the additional victim surcharge (currently £15) which is essentially another government tax which all defendants have to pay, the proceeds of which go to the victims of crime.

If the Court has ordered the endorsement of your driving licence this will usually be sent by the Court to the DVLA so that they can record the endorsement. The DVLA will return your licence to you at a later date. If, however, your case involves a fixed penalty offence only, your licence will normally be returned to you direct from the Court.

**If you are told that there is a possibility of the Court disqualifying you as part of your sentence, then DO NOT DRIVE TO THE COURT HEARING - make alternative arrangements.**

## **PAYING YOUR FINE**

The Court will often ask you how soon you can pay your fine. If you are not able to pay it on the day, they may allow you extra time to pay. You can make an offer to the Court as to how you can pay it. The Court always likes the fine to be paid as soon as possible and always within six months. The Court is also likely to make a Collection Order which means that if the fine is not paid, enforcement action may be taken to recover the money and your belongings may be taken and sold to repay the debt. It is therefore extremely important that you pay your fine on time and let the Court know if there is likely to be any problem. You will be given details of how to pay.

You have the right to appeal against the sentence if you think it is too severe or you were unfairly convicted. We will advise you on this matter further. You must lodge any appeal within 28 days of your hearing. Bear in mind that the Court to which you appeal has the power to increase your sentence as well as decrease it.

**We hope this guide has been helpful in giving you an insight into what to expect. Remember, the Road Transport and Motorist Defence team at Rothera Dowson are regulars at Court and will do their utmost to keep you calm and to help you feel prepared. You are bound to be nervous but you are in experienced and knowledgeable hands.**

For further information, please contact Anton Balkitis or Lucy Wood on: 0115 9100600

**A Typical Magistrates' Courtroom**

