

infovictims



KNOW
YOUR **RIGHTS** AS A
CRIME VICTIM


Victim Support
Scotland

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INDEX

INTRODUÇÃO	6
O PROCESSO CRIME	7
O CRIME	8
A IMPORTÂNCIA DE DENUNCIAR UM CRIME	9
DENUNCIAR UM CRIME	9
COMO DENUNCIAR UM CRIME	11
A INVESTIGAÇÃO: FASE DE INQUÉRITO	14
EXAMES MÉDICO-LEGAIS	16
ENCERRAMENTO DA FASE DE INQUÉRITO: ACUSAÇÃO, ARQUIVAMENTO OU SUSPENSÃO PROVISÓRIA DO PROCESSO	17
FASE DE INSTRUÇÃO	19
O JULGAMENTO	20
PREPARAÇÃO PARA O JULGAMENTO	20
A MARCAÇÃO DO JULGAMENTO	20
O QUE ACONTECE SE FALTAR AO JULGAMENTO	22
ONDE E QUANDO COMPARECER	23
QUEM PODE ASSISTIR	24
A SALA DE AUDIÊNCIAS	24
O PAPEL DA VÍTIMA NO JULGAMENTO	26
O INÍCIO DO JULGAMENTO	26
AS PROVAS	27
COMO TERMINA O JULGAMENTO	31
A SENTENÇA	31
O RECURSO	32

PROCESSOS ESPECIAIS	33
PROCESSO SUMÁRIO	34
PROCESSO ABREVIADO	34
PROCESSO SUMARÍSSIMO	35
20 DICAS PARA O DEPOIMENTO DE VÍTIMAS E TESTEMUNHAS	37
DIREITOS DAS VÍTIMAS DE CRIMES	43
DIREITO À INFORMAÇÃO	44
INFORMAÇÃO SOBRE DIREITOS	44
INFORMAÇÃO SOBRE O PROCESSO	45
DIREITO DE RECEBER COMPROVATIVO DE DENÚNCIA	46
DIREITO A TRADUÇÃO	46
DIREITO DE ACESSO A SERVIÇOS DE APOIO À VÍTIMA	47
DIREITO DE SER OUVIDA	48
DIREITOS EM CASO DE NÃO ACUSAÇÃO DO ARGUIDO	49
DIREITO À MEDIAÇÃO	50
DIREITO A INFORMAÇÃO E PROTEÇÃO JURÍDICA	51
DIREITO À RESTITUIÇÃO DE BENS	52
DIREITO A COMPENSAÇÃO PELA PARTICIPAÇÃO NO PROCESSO E AO REEMBOLSO DE DESPESAS	52
DIREITO A INDEMNIZAÇÃO	53
INDEMNIZAÇÃO POR PARTE DO AUTOR DO CRIME	53
INDEMNIZAÇÃO POR PARTE DO ESTADO PORTUGUÊS	54
A VÍTIMAS DE CRIMES VIOLENTOS	54
A VÍTIMAS DE VIOLÊNCIA DOMÉSTICA	56
DIREITO À PROTEÇÃO	56
SEGURANÇA	57
MEDIDAS DE COAÇÃO	57
PROTEÇÃO DA VÍTIMA E OUTRAS TESTEMUNHAS	58
PRIVACIDADE	59
NÃO CONTACTO COM O ARGUIDO	59
DIREITOS DAS VÍTIMAS COM NECESSIDADES ESPECIAIS DE PROTEÇÃO	60
DIREITOS DE QUEM É VÍTIMA NUM PAÍS DA UNIÃO EUROPEIA QUE NÃO O DA SUA RESIDÊNCIA	61

Anyone can be a victim of crime

Being a victim of crime is a negative event that can happen to anyone during their lifetime. A crime can have physical, psychological, economic and social consequences on an individual. In addition, it is normal that participating in the criminal justice system may raise questions in your mind and makes you feel anxious and apprehensive.

If you have been a victim of crime or if you know someone who was, this brochure can help you.

Here you will find information on the criminal proceedings, your rights and the agencies that can support you.

DISCLAIMER

Some of the information available on this brochure has been deliberately simplified, so that it is easily understood by the general public. This simplification does not affect the accuracy and correctness of the content. Considering current law and its evolution, the variety of legal practices and the fact that each case is a case, you are advised to complement the information available on this brochure with the necessary tailored legal advice. The content for this brochure was created by Victim Support Scotland in the context of the INFOVICTMS II project, co-financed by the Criminal Justice Support Programme of the European Commission—Directorate-General for Justice. The content reflects Victim Support Scotland's point of view, and the European Commission cannot be made responsible by any use of the information available on this brochure.

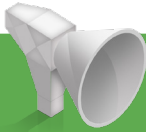
CRIMINAL JUSTICE PROCESSES

**“HERE YOU CAN
FIND A SHORT
DESCRIPTION OF
THE PHASES IN
THIS PROCESS.”**

It’s only natural that taking part in criminal proceedings makes you feel anxious and that a few questions come to mind.

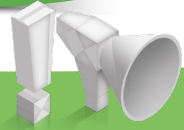
You may like to know what is going to happen and what you are supposed to do. Here you can find a short description of the phases in this process. We will try to give you short and simple answers to questions such as: *“How to report a crime?”*, *“How is the investigation conducted?”*, *“What happens in court?”*, *“What is an appeal?”*

The process applied to individuals aged 16 and above is described here. If the crime was committed by a child or young person aged below 16, then special criminal proceedings apply.



DENUNCIAR UM CRIME

101 NON-EMERGENCY NUMBER



101 is the new number to contact the police when it's less urgent than 999.

The 101 non-emergency number will make it quicker and easier for you to contact the police when you don't need an emergency response, for example to:

- Speak to your local police officer.
- Report a crime that's already happened, such as a theft or damage to property.
- Get crime prevention advice.
- Make us aware of any policing issues in your area.

101 provides one easy-to-remember number to contact the police wherever you are in Scotland, or elsewhere in the UK. The 101 non-emergency number is available 24 hours a day, 7 days a week. It costs a flat rate of 15p per call from both landline and mobile networks, no matter how long you are on the phone or what time of day it is.

When you dial 101, the system will determine your location and connect you to the service centre covering your area. By having one easy to remember number, 101 should make the police more accessible while reducing pressure on the 999 system.

"THE 101 NON-EMERGENCY NUMBER IS AVAILABLE 24 HOURS A DAY, 7 DAYS A WEEK."

In an emergency always dial 999 - when a life is in danger, a crime is in progress or a suspect is nearby.

You can also access Police Scotland's website and find out how to report minor non-urgent crimes on line.

In some areas, if you have been the victim of a racial or homophobic crime, you can report it without going to a police station. This is called "Remote Reporting" or "Third Party Reporting". This type of reporting allows you to report the matter to a third party organisation that in turn

forwards it to the police. This organisation may also be able to offer support and advice to you or let you know of an organisation that can offer this support and advice. This organisation can also act as a link between the victim and the police. If you want to find out which organisations in your area offer this type of service, you can contact your local police station anonymously or access Police Scotland's website.

Tell the police everything you know about the case and the accused. In law, someone is innocent until they are proven guilty, and so they should not be kept in police custody unless there are good reasons for doing so. The police decide whether to keep the accused in custody or to release them. That officer must know as much as possible about the case and the person. **So, if you think you know something that may be of relevance and might help them decide, you should let the police know immediately.**

If you want to report the crime anonymously or give information about a crime call Crimestoppers on 0800 555 111.



After a crime is reported you may be interviewed to gather more information. Following this you may not hear from the police for some time. If you want to know how your case is progressing, you can contact the police (you will be told who to contact once you have reported the crime, and you will be given a crime reference number that you should quote to help the police find the information more easily). Unfortunately not all cases are resolved. Sometimes no one is caught or there is not enough evidence for the police to take further action. For some offences the police may issue a fine. This is called a Fixed Penalty Notice.

Detention of suspects

When the police believe that someone has committed a crime, they can detain that person in custody for up to twelve hours, which may in certain circumstances be extended by a further twelve hours. At the end of the time the police must release the suspect unless they believe they have enough evidence to arrest them. If they release the suspect without charging them, they may still carry on investigating the crime.

What happens when someone is arrested?

Someone can be arrested after being detained, or can be arrested straight away. For example, if the police have enough evidence that someone has committed a serious crime, they can be arrested, and taken straight to a police station.

What happens when people are released from custody?

Most people who are arrested will be released from custody quickly. Depending on the nature of the crime, if the police know who they are, where they live and consider that they will not present a risk, they may be released once they have had their photographs, fingerprints and DNA samples taken.



DECISION TO PROSECUTE

If the police think there is enough information to take a case to court, they will report the case to the Procurator Fiscal (PF) often just called the Fiscal. The PF may decide to take the case further, or to take no further action. Once a case has gone to the PF it is no longer the responsibility of the police. You can still ask the police about progress and they will tell you that that a report has now gone to the PF. You can then contact the PF for further information.

The Procurator Fiscal is the public prosecutor in Scotland. The PF is in charge of deciding whether someone should be prosecuted and what court the case should be heard in. The prosecution has the ‘burden of proof’ which means that they need to present enough evidence to prove ‘beyond reasonable doubt’ that an accused person is guilty. The PF prosecutes the crime on behalf of the Crown, and makes decisions in the public interest (see below). If the suspect is under 16, the police will usually refer the young person to the Children’s Reporter to consider the case and decide what action to take. This process is explained in more detail in the Youth Justice section of the Victims of Crime in Scotland website.

Depending on the nature of the crime, and if the police think it is important that the case is heard at court quickly, the person may be released on an Undertaking **often called police bail. After the police arrest someone they may release them from the police station if the person signs a document undertaking**

(promising) to come to court on the date the police have given them. They must agree to other conditions such as not committing any other crimes. This means they will promise to attend court when told to (usually within two or three weeks). They must also agree to certain conditions they must not commit any further crimes, and must not interfere with witnesses. This is often called being bailed from the police station, but another term for this is liberation, or liberation on undertaking.

Why someone may not be released

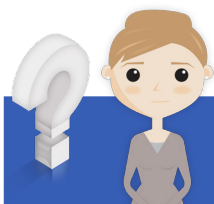
Depending on the crime, or if the police think the person may commit more crimes, or will be a risk to an individual, or to the public, they may be held in custody until the next court day (or over the weekend, if they were arrested on a Friday). If so, the police will prepare a custody report for the PF for the next day. When the accused appears in court they are entitled to apply for bail and, unless the Fiscal can argue that there are strong reasons why the person should not be released, they will be given bail (released) until the trial. Reasons why someone may not get bail include a serious chance that the accused will commit more crimes, abscond, or is a danger to witnesses, or other members of the public.

What to do if you are worried about the accused being released

If the Procurator Fiscal knows about any concerns you have, they may be able to ask the court for some special conditions for bail. Tell the police officer you are dealing with or the Fiscal or your lawyer about any concerns as soon as possible. If the Fiscal does not know of your concerns, they can't tell the court.

Suspects released on bail, will be told not to make contact with you, or any other witnesses, in any way. They must not behave in a way that causes, or is likely to cause, alarm or distress to you or any other witness. Sometimes (special) conditions will be attached to their bail. For instance, the accused could be told that they are not allowed to enter a certain shop, or go to a particular place. **If the person does approach or bother you, you must tell the police straight away as they can arrest the person if they are breaking their conditions of bail.**

**"IF THE PERSON
DOES APPROACH
OR BOTHER YOU,
YOU MUST TELL
THE POLICE
STRAIGHT AWAY."**



WHAT HAPPENS BEFORE A COURT CASE

Witness Interviews by the Procurator Fiscal (precognition)

Sometimes the PF or someone on their behalf, known as a precognition officer, speaks to some or all of the witnesses individually about the case and the evidence they will give. This is called a precognition investigation interview, or precognition for short. It often takes place at the Fiscal's office, and is a chance to make sure the Fiscal knows as much as possible about the case. You might also be asked for a precognition by the defence solicitor.

Witness Interviews by Defence Solicitors (precognition)

If someone is accused of a crime, they will usually have a lawyer to help them. This lawyer will act on their behalf in any court proceedings and is known as the defence. It is the defence solicitor's job to represent the accused. The defence interview can be arranged for a time and a place of your choosing, within reason. If you wish to be accompanied by someone when you are interviewed this can be arranged (as long as they are not a witness in the same trial).

Many people worry that they might help the person who committed the crime if they tell the defence solicitor anything. However, speaking to the defence solicitor can be helpful, as it will let the solicitor know what evidence there is against their client (the accused) and help them give the best advice. Sometimes this might be to advise the accused to plead guilty, thus avoiding a trial.

If you have been a victim of a crime you might get a letter from the defence solicitor asking to talk to you. This is called a precognition interview, or precognition for short, and is a routine part of proceedings. Defence solicitors often employ people to take precognitions for them, called precognition agents. The Law Society for Scotland,

"IF SOMEONE IS ACCUSED OF A CRIME, THEY WILL USUALLY HAVE A LAWYER TO HELP THEM."

(the governing body for lawyers in Scotland), has rules about the use of precognition agents and their conduct.

The defence may also question you in court if there is a trial and you are called as a witness.

Receiving a Witness Citation

You may have been asked to be a witness because you:

Have been a victim of crime, have seen, heard or know something in connection with a crime or have information about someone accused of a crime.

The letter that tells you where and when to go to court is called your **citation**. You may feel anxious about appearing in court but advice, assistance and support services are available for witnesses.

Visits can be arranged in advance to help witnesses become more familiar with the courtroom. It is important not to ignore the citation. If you do not turn up at the correct time and place, the court can issue a warrant for your arrest.

Special arrangements can sometimes be made for elderly, disabled or vulnerable witnesses. You can contact the procurator fiscal who called you to give evidence if you have any questions, concerns or special requirements.

More information about this stage is available here <http://www.copfs.gov.uk/involved-in-a-case/witnesses>

“IF SOMEONE IS ACCUSED OF A CRIME, THEY WILL USUALLY HAVE A LAWYER TO HELP THEM.”

Can I visit the Court beforehand to have a look around?

The Witness Service will be able to arrange for you to have a look around a court building and an empty courtroom and also explain the different procedures that can happen. Most witnesses find this familiarisation visit in advance of a trial to be extremely helpful and it can put your mind at ease. The Witness Service is provided by Victim Support Scotland a service is provided in all Sheriff and High Courts in Scotland. Their helpline is **0345 60 39 213**.



WHAT HAPPENS AT COURT

Getting a case ready for court can take some time. This is because it is important for everyone that the case has been properly prepared and that all the information is accurate. There are various steps that may take place in the court process.

There are three kinds of courts to deal with different types of crime. The differences are explained below:

Justice of the Peace Courts

These criminal courts replaced District Courts. They deal with less serious criminal cases and road traffic cases. The judge is called a Justice of the Peace (sometimes shortened to JP). Normally the maximum fine this court can give is £2,500 and the longest prison sentence is 60 days. The largest Justice of the Peace Court is in Glasgow. Glasgow also has Stipendiary Magistrates, who can consider more serious cases. They have the same sentencing powers as Sheriffs in **summary** cases.

Sheriff Court

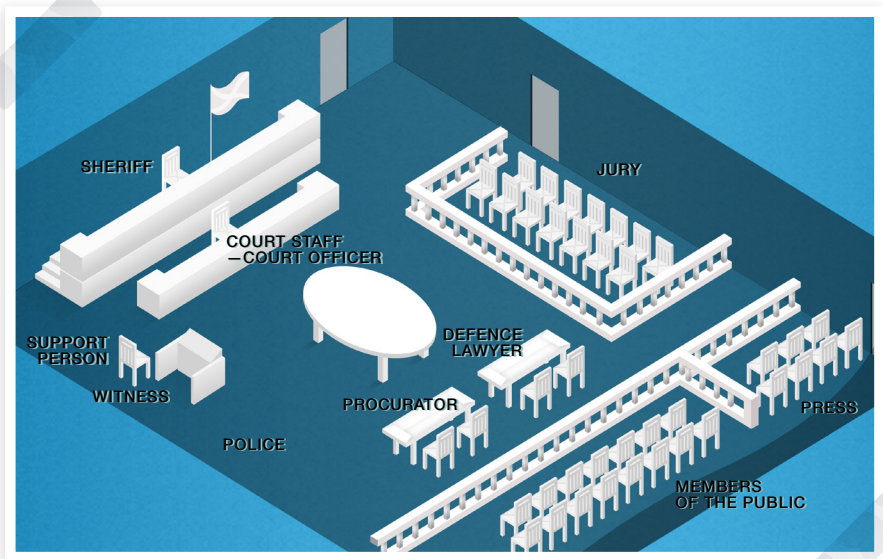
The Sheriff Court involves **summary** and **solemn** trials. The Judge is a qualified lawyer, known as a Sheriff, who must have at least 10 years legal experience. In **summary** criminal cases there is no jury and the Sheriff decides whether the accused is guilty or not and then decides the sentence. In **solemn** criminal

cases, which are more serious cases, there is a Sheriff and a jury. The jury decides whether the accused is guilty or not and the Sheriff then decides the sentence.

- For summary criminal cases a Sheriff can impose up to 12 months in prison, and fines of up to £5,000.
- For solemn criminal cases a Sheriff can sentence the accused for up to five years in prison, and an unlimited fine.

“THERE ARE THREE KINDS OF COURTS TO DEAL WITH DIFFERENT TYPES OF CRIME.”

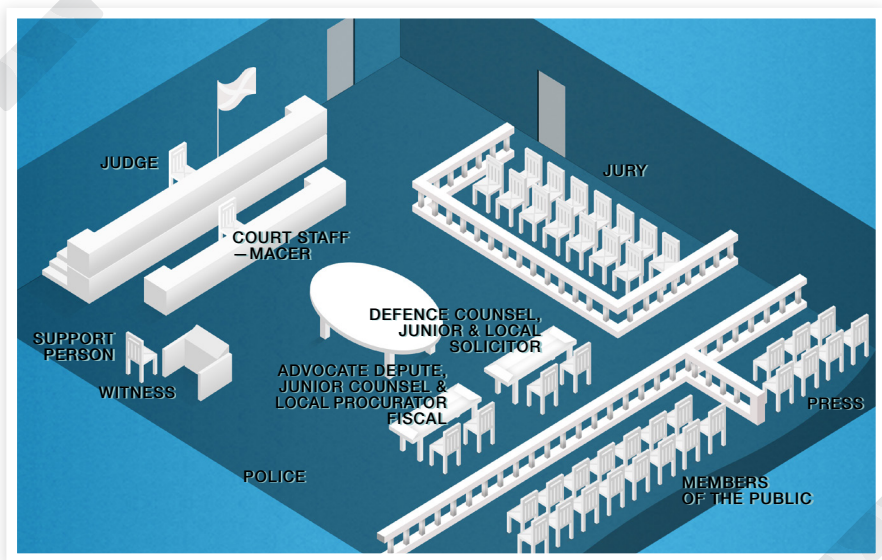
- If the Sheriff thinks that the crime deserves a higher sentence than they can pass, they can refer the case to the High Court for sentence.



High Court

The High Court only deals with **solemn** proceedings involving a judge and a jury. The jury decides whether the accused is guilty or not and the Judge then decides the sentence. The High Court deals with the most serious cases such as murder, rape, and treason. Judges (not Sheriffs or Magistrates), sit in the High Court. In the High Court there is no limit on the length of sentence or amount of the fine that can be imposed although, the sentence for some crimes is limited by statute. The High Court also deals with all criminal appeal cases.

“JUDGES (NOT SHERIFFS OR MAGISTRATES), SIT IN THE HIGH COURT.”



Being a witness in court

If you have been asked to be a witness in court, the Victim Support Scotland website will help you. This website tells you about going to court and what to expect there. It also explains the various special measures that may be available to help vulnerable witnesses, including children, and how these can be accessed. Many witnesses will not require to use special measures but may benefit from other forms of support. You can ask the person who has called you to be a witness for advice on what can be done to help.

Most people feel better about being a witness if they know what to expect and have visited the court beforehand. If you are called as a witness, the Witness Service can give you help and support. The Witness Service is provided by Victim Support Scotland a service is provided in all Sheriff and High Courts in Scotland. Their helpline is **0345 60 39 213**.

The Witness Service can answer questions of a general nature about what happens at court and can also arrange a court familiarisation visit. If you have been contacted by the Victim Information and Advice (VIA) service (within the Procurator Fiscal's office), they can also arrange a court visit with the Witness Service for you.

If you would find it helpful to look at an image of a courtroom on a CD Rom or DVD, which also includes information on special measures for vulnerable witnesses

and describes how they are used, ask the person citing you as a witness to let you see these.

If you are particularly concerned about entering the court building or being in the same waiting area as someone else in the case, it may be possible in some courts for a court official, the Witness Service, or Victim Information and Advice, to arrange to meet you at a particular entrance and for you to sit in a different witness room.


Otherwise, when you arrive at court, a court officer will note your attendance, direct you to the witness room and guide you into the courtroom when you are called to give evidence. Witnesses for the defence and for the prosecution (the Crown) will wait in separate rooms. You may need to wait quite a long time before it is your turn to give evidence. However, the Witness Service, Scottish Court Service or VIA will try and keep you regularly updated on what is going on.

Before you give your evidence, you will be asked to either repeat a religious oath or to agree that you promise to tell the truth. If you are a witness for the prosecution, the Procurator Fiscal (PF) or Advocate **depute (an advocate or senior Procurator Fiscal who works only for the prosecution and prosecutes only in the High Court)** will ask you about the case, and what you remember. The defence solicitor will then ask you some questions. (If you are a defence witness, the defence solicitor will ask you questions first).

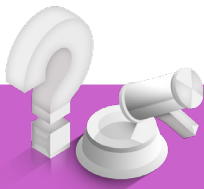
You should always say exactly what you remember. If you can't remember, you should say that. When the lawyers have finished asking their questions, the judge or sheriff will let you know when you can leave.

More information about attending court, and what happens when you are there, is available on the Scottish Court and tribunals Service and the Crown Office websites.

In a criminal case, if you have finished giving your evidence, you may want to go into the public gallery of the courtroom to listen to the rest of the case. Please remember that sometimes the court clears the public area when some witnesses are giving their evidence. You should always check with the court staff whether you are allowed into the public area after you have given your evidence.



**“ IF YOU ARE
CALLED AS A
WITNESS, THE
WITNESS
SERVICE CAN
GIVE YOU HELP
AND SUPPORT.”**



COURT OUTCOME WHAT HAPPENS NEXT

It is never possible to predict how long each court case will last. Some cases last only one day, others can go on for several days, weeks or much longer. It usually depends on how many witnesses there are and how long each witness takes to give their evidence. When the evidence of all witnesses has been heard, the judge/ sheriff (or jury) must reach their verdict or make their decision.

There are three verdicts in Scotland: **Guilty**, **Not Guilty** and **Not Proven**:

Not proven or not guilty

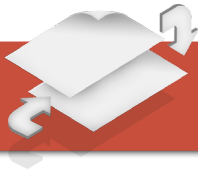
If the accused is found not guilty, or the charge is found not proven then the accused is free to go, and there are no further proceedings in that case. Both these verdicts mean there was not enough evidence to prove the case “beyond reasonable doubt”.

Guilty

If the accused is found guilty the Judge will decide on the most appropriate sentence. There are a wide range of Sentences and options depending on the nature of the crime and the background of the person who has been convicted. Sometimes sentencing does not happen immediately after a verdict but is delayed for background reports.

If you would like to talk to someone or to have an explanation of a particular decision or sentence, you should contact the PF/VIA (or the defence lawyer if they cited you). They will give you as much information as they are allowed to. If you are claiming expenses, you will find all the details on the back of your citation. When you have completed this, you can claim from the person who cited you as a witness.

**“ THERE ARE
THREE VERDICTS
IN SCOTLAND:
GUILTY, NOT
GUILTY AND
NOT PROVEN.”**



APPEAL PROCESS

Only the convicted person or the prosecution can make an appeal. Victims of crime who are unhappy with the verdict or sentence can talk to VIA about how they feel and ask for a meeting with the fiscal or trial prosecutor to find out more about what happened and, if possible, the reasons for it.

Following a criminal case, a convicted person may appeal against their conviction or sentence. The court may refuse the appeal or may allow the appeal in full or part. If the appeal is allowed in full, the court may order a retrial or may acquit the accused. If the accused pleaded guilty they would normally only be able to appeal against the sentence.

If offenders appeal they can also apply for bail and may be released while waiting for the appeal to be heard (this is called 'interim liberation'). Almost all appeals in Scotland are heard by Judges in the Appeal Court, which is based in Edinburgh. The court is able to impose a higher or lower sentence, or may confirm the original sentence.

The prosecution has more limited right of appeal. The prosecution can:

- Appeal against an acquittal ("not guilty" or "not proven" verdict), but only in summary cases (where there has been no jury). And this can only be on a point of law.
- Appeal against sentence, but only where a sentence is regarded as 'unduly lenient' (if it falls outside the normal range of sentences the judge could have considered appropriate, taking account of all the relevant factors).

" FOLLOWING A CRIMINAL CASE, A CONVICTED PERSON MAY APPEAL AGAINST THEIR CONVICTION OR SENTENCE."



Lined writing area consisting of 21 horizontal lines.



A vertical red ribbon graphic on the left side of the page, featuring a white dashed line down its center and a white arrowhead pointing downwards at the bottom.

20 TIPS
ON GIVING
EVIDENCE
FOR VICTIMS
AND WITNESSES

1

ALWAYS TELL THE TRUTH.

Be honest in describing everything that you can remember about what happened. This is your role as a witness.

2

LISTEN CAREFULLY

Listen carefully to the questions you are being asked. Only reply after the question has been fully asked.

3

TAKE THE TIME

Take the time to think through the question and your answers.

4

RESPOND SLOWLY AND CALMLY

Respond slowly and calmly to all the questions using clear and short sentences.

5

DO NOT BE AFRAID TO SAY EVERYTHING

Do not be afraid to say everything, all you know and all the details you remember. All the information you can provide can be important to finding out what happened. If, in order to describe what happened, use the same words used by the accused during the crime, even if it is swear words.



REPLY ONLY TO WHAT YOU ARE BEING ASKED

Do not try to please who is asking the questions by providing information on subjects you don't know.



DO NOT REPLY TO QUESTIONS YOU DID NOT FULLY UNDERSTAND

You can and you should ask for the question to be repeated or better explained. You can say: "I'm sorry. I didn't understand. Can you please repeat/explain better?"



DO NOT COME UP WITH A REPLY

For questions you don't know how to reply to, your response should be only one: "I don't know". Remember that your role is to tell what you know about what happened. Do not come up with a reply just to answer the question. Do not assume and do not give your opinion. State the facts that you saw, heard, know of or realised directly. Testimonies based on rumours or hearsay are irrelevant.



ALWAYS ANSWER IN THE SAME WAY

It is possible that you will be asked the same question more than once. Try to always answer in the same way.

10

DO NOT BE AFRAID TO SAY “I CAN’T REMEMBER”

It is natural that you can’t remember all the details or that you can’t recollect some things accurately. If this happens, stay calm and do not be afraid to say “I can’t remember”. To forget some of the things that happened in the past is a natural memory process. This can be associated with the passage of time (many times, witnesses have to testify about something that happened many months or years ago) and to discomfort arising from remembering a negative life experience.

11

IT IS NATURAL TO FEEL EMOTIONAL

You may experience feeling afraid, nervous or tearful. Giving evidence is an experience that can cause anxiety and frighten anyone. To talk about the crime or to answer questions about what you witnessed (or you were a victim of) is not a pleasant task because it makes you remember an incident or event that you would prefer to forget and ‘erase’ from your memory. One of the reactions that can occur is crying. Do not feel ashamed because of that. Your reaction will be understood as that has happened to many people in the same situation.

12

YOU CAN REQUEST A BREAK

If you feel tired or too nervous, you can either request a break to go to the toilet or ask for a glass of water and a tissue.

13

DON'T BE AFRAID OF THE ACCUSED

Do neither be afraid of the accused nor let his/her presence inhibit you. Avoid looking at him/her while answering the questions. Look only at the person asking the questions.

14

THE WITNESS IS NOT BEING ACCUSED OF ANYTHING

The witness is not being accused of anything: the witness has not committed a crime. It is the accused that is on trial. The witness is there to help the authorities collect important information so they can take better decisions.

15

DO NOT LET IT AFFECT YOU

It is natural that during the trial some of what is said or some of the questions you are asked may cause discomfort if you feel that they are challenging what you went through. Keep in mind that may be part of the accused's defence strategy, so stay calm and do not let it affect you.

16

YOU ARE NOT RESPONSIBLE FOR THE COURT'S DECISION

Remember that you are not responsible for the court's decision regarding the accused. Carry out your role and describe what happened. The decision to whether or not to convict the person accused of committing the crime always lies with the judge.

17

YOU CANNOT TALK TO OTHER PEOPLE

In the trial, after you testify, it is possible that the trial will proceed and that other witnesses are heard by the judge. You can either stay and watch the rest of the trial or leave the court. You cannot talk to other people about what happened during your testimony, particularly to other witnesses who haven't testified yet.

18

YOU DON'T HAVE TO ATTEND THE READING OF THE SENTENCE

The judge, after hearing all the witnesses, he/she will read the sentence. If you wish you can attend but you don't have to do it.

19

NOT GUILTY DOES'NT MEAN BEING INNOCENT

If the outcome of the trial is that the accused is found not guilty or not proven, then the individual is released. It does not mean that the judge did not believe in your evidence. It means that not enough (and valid) evidence was collected beyond reasonable doubt for the judge or jury to take a decision about whether the accused was guilty of the crimes.

20

REPORT THREATS TO THE POLICE IMMEDIATELY

If someone threatens or intimidates you or tries to attack you after you testify, report that to the police immediately. If someone has threatened or intimidated you or tried to attack you before you testify, then, besides reporting it to the police, you should also inform the court.

THE RIGHTS OF VICTIMS OF CRIME



The right to information is very important, since **well-informed victims can fully participate in the process and exercise their rights. Information should be given to you in a simple and accessible form, so that you can understand it.**

There is a new law about information for victims and witnesses—this can be found in **The Victims and Witnesses (Scotland) Act 2014**. As part of these improvements, new standards of service have been developed by the Crown Office and Procurator Fiscal Service (Copfs), Scottish Courts and Tribunals Service, Police Scotland, Scottish Prison Service and the Parole Board for Scotland. <http://www.gov.scot/Topics/Justice/policies/victims-witnesses>

If you are a victim or witness, you will be able to ask for some information about the case. Normally this should be provided to you routinely and without you having to do anything further. There are some types of information that you may not be able to get and the following points explain that process a bit further.

“INFORMATION SHOULD BE GIVEN TO YOU IN A SIMPLE AND ACCESSIBLE FORM.”

Who can ask for information?

You can ask for information if you are:

- The victim of the offence or the alleged offence.
- A person who is going to give evidence about the offence or the alleged offence.
- A person who has given a statement to a police officer or to a prosecutor about the offence or the alleged offence.

If you are a relative of a victim who has died you may be able to ask for information where the victim's death has been, or may have been, caused by the offence or alleged offence.

Who can give me information?

You can get information from:

- Police Scotland (Police)
- The Scottish Court and Tribunals Service (SCTS)
- Crown Office and Procurator Fiscal Service (COPFS)
- The Parole Board for Scotland
- Scottish Prison Service

What information can I ask for?

You can ask for information about:

- Why the police are not investigating the crime or why they have stopped an investigation.
- Why COPFS are not taking a case to court.
- What is happening with a case.
- What is happening with a case in court.
- What offence a person has been charged with.
- What decision the judge or sheriff made about the case.

Who should I ask to give me the information?

Different organisations are responsible for keeping different pieces of information about a case

Police—You can ask the Police for information about:

- Why the police are not investigating a crime or why they have stopped an investigation.

COPFS—You can ask the COPFS about:

- Why COPFS are not taking a case to court.
- What is happening with a case.

SCTS or COPFS—You can ask SCS or COPFS about:

- What offences a person has been charged with.

SCTS—You can ask SCTS for information about

- What is happening with a case in court.
- What decision the judge or sheriff made about the case.

What information do I have to provide?

You may have to provide proof of your identity. If you are asking for information on behalf of another person, you will have to provide a note signed by that person giving you their permission to ask for information.

“SOMETIMES IT WILL NOT BE POSSIBLE TO PROVIDE YOU WITH THE INFORMATION YOU ARE ASKING FOR.”

Why might I not get the information I have asked for?

Sometimes it will not be possible to provide you with the information you are asking for. This might be because the information is held in confidence or the organisation who holds the information does not think it is appropriate to give out that information.

The organisation that you have contacted for information will let you know if they are unable to provide that information.

Who do I contact in COPFS for Information?

If you are a victim of crime and have been contacted by Victim Information and Advice (VIA) you should telephone the number you have been given.

If you have not been contacted by VIA or are a witness you can contact the COPFS enquiry point by email at EnquiryPoint@copfs.gsi.gov.uk by telephone from a landline on 0844 561 3000 or from a mobile on 01389 739 557.

What is the Victim Notification Scheme?

If the offender has been sentenced to 18 months or more in prison, the victim can choose whether or not to register with the Victim Notification Scheme. The scheme has two parts and victims can opt to receive information under either or both parts. Part 1 entitles victims to receive information about the offender's:

- Release.
- Date of death, if they die before being released.
- Date of transfer, if they are transferred to a place outwith Scotland.
- Eligibility for temporary release (for example, for training and rehabilitation programmes or home leave in preparation for release).
- Escape or absconding from prison.
- Return to prison for any reason.

Part 2 of the scheme entitles victims to information about the offender being considered either for parole or release on Home Detention Curfew (HDC) (sometimes known as “tagging”):

- When the Parole Board for Scotland is due to consider the case affecting the victim, the victim will be given the chance to send written comments to the Board
- When the Scottish Prison Service is considering a prisoner’s release on HDC, the victim will be given the chance to send written comments to the prison service
- The victim will be told whether the Board recommends or directs the release of the offender
- The victim will be told whether any conditions have been attached to the licence that relate to them or their family.

How do victims register for the scheme?

After sentencing, the Procurator Fiscal (PF) or VIA officer will give you a form that you should complete and send to the Scottish Prison Service if you want to receive this information.

When the offender is due to be released, the Prison Service will send a letter telling you the date of release. The Prison Service cannot give details about an offender’s whereabouts after their release.

If, after registering for the Victim Notification Scheme, you decide to leave the scheme you should write to the Scottish Prison Service to let them know. You should also tell them if you change address.

If you didn’t originally join the scheme but then decide you would like to register, you can do this at any time until the offender reaches the point in the sentence when they are due to be released. If the offender is just about to be released, or has already been released, then it will not be possible for you to join the scheme.

**“WHEN THE OFFENDER IS
DUE TO BE RELEASED, THE
PRISON SERVICE WILL SEND
A LETTER TELLING YOU THE
DATE OF RELEASE.”**

You can find out more about the Victim Notification Scheme from the Scottish Prison Service. Contact them on 0131 244 8670.



RIGHT TO PARTICIPATE

The Victims and Witnesses (Scotland) Act 2014 states: “a victim or witness should be able to participate effectively in the investigation and proceedings” and there are now measures in place to assist people with different needs to contribute to the process of justice.

Is there help available for Vulnerable witnesses?

Some witnesses might be particularly vulnerable because of their circumstances or the nature of their evidence. A witness who has a mental health condition, **learning disability** or is suffering fear and distress at the prospect of giving evidence might be considered vulnerable.

The **COPFS—Victim Information and Advice (VIA)** service may be able to help vulnerable witnesses, for instance, in cases that involve domestic abuse, hate crime, and sexual crime. **Bereaved relatives in deaths** that may involve significant further inquiries or court proceedings may also be offered support. All children are considered vulnerable witnesses and cannot be named by the media when involved in criminal proceedings.

Some special measures can be taken to help vulnerable witnesses, including all children, such as giving evidence from behind a screen in the courtroom or by a television link, or having a support person with you in court. Witnesses may also need additional support if English is not their first language. A **booklet explaining different ways to help a vulnerable witness** give their evidence, using special measures, is available from the Scottish Government website.

What help can be given to disabled or elderly witnesses?

Most courts provide facilities for elderly and disabled witnesses, for instance, to allow wheelchair access. Some have a loop system for people with hearing difficulties. If you have a disability or other needs, you should tell the procurator fiscal. If you are disabled or elderly and restricted in your movements, you can hire a taxi for your journey to and from court. You must agree this with the fiscal beforehand and keep receipts to claim back expenses.

English is not my first language – what about interpretation?

If you need an interpreter, either for a spoken language or for British Sign Language, or translated documents, the authorities will make provisions to ensure you can understand what is happening and that you can be understood throughout the different stages. The authorities will need to know the exact language and dialect so that a suitable interpreter can be arranged.

Victims of sexual violence, domestic abuse, human trafficking and stalking

A duty is placed on police officers to provide victims the opportunity to **specify the gender of the police officer who is to interview them and the medical officer who is to examine them**. This option is only given to victims of certain offences and it is also dependent on the resources of Police Scotland as to whether this request can be accepted.

Can I tell the court how the crime affected me?

Victim Statements—Victims or relatives of serious crimes will be given the opportunity to make a written statement that tells the court how the crime affected them—physically, emotionally and financially. <http://www.gov.scot/Resource/Doc/256204/0076050.pdf>

Key points about victim statements are:

- A victim statement is a **written** statement that gives you the chance to tell the court, in your own words, how the crime has affected you physically, emotionally or financially. A victim statement is different from any statement you may have already given separately to the police, Procurator Fiscal or defence agent.
- You are being given the choice of making a statement because a decision has been made to prosecute the case (that is, to go to trial).
- Your victim statement will normally be given to the **court if the accused either pleads guilty or is found guilty** of the relevant offence after a trial, but before a sentence is passed.
- A copy will also be given to the defence.
- The Judge or Sheriff must consider all the circumstances of the case and your victim statement and decide what weight should be given to it.
- Your victim statement will not always have an effect on the sentence.
- Your victim statement should be truthful, to the best of your knowledge.

**“YOU ARE BEING GIVEN
THE CHOICE OF MAKING
A STATEMENT.”**

Will I be told if and when the offender is released from prison?

Victim Notification Scheme—Victims now have the right to make **oral representations** to the Parole Board for Scotland ('PBS') as well as written representations, where the convicted person is serving a sentence for life imprisonment and becomes eligible for release on licence. All other representations through the VNS to the Parole Board are still limited to written form.

Victims will now be able to **make representations** via the VNS about the licence conditions that may be imposed when a prisoner first becomes eligible to be considered for **temporary release** from prison.

You can find out more about the Victim Notification Scheme from the Scottish Prison Service. Contact them on 0131 244 8670.



RIGHT TO ACCESS SUPPORT



Victims have the right to access confidential victim support services, **free of charge, before, during and after the criminal proceedings.**

Victim Support Scotland provides emotional support, practical help and essential information to support to victims, witnesses and others affected by crime. The service is free and confidential.

The victim has the right to access victim support services even if the crime was not reported to the Police.



RIGHT TO COMPENSATION AND REIMBURSEMENT OF EXPENSES



Can a court award Compensation to me?

Sometimes a court will award compensation to a victim of a crime; this is a decision for the court. A **Compensation order** requires an offender convicted of an offence

to pay compensation to a person for personal injury, loss, or damage caused directly or indirectly, or alarm or distress caused directly against whom or against whose property the acts constituting the offence were directed.

The offender pays the money to the court, and the court then passes it on to the victim.

I have been injured because of a violent crime—can I be compensated?

Criminal Injuries Compensation Scheme—The Criminal Injuries Compensation Authority (CICA) is responsible for administering the Criminal Injuries Compensation Scheme throughout England, Scotland and Wales. They pay compensation to eligible applicants who have been the victim of a **violent** crime, for example a physical assault or sexual offence.

For more information visit the CICA website or you can call 0300 003 3601. The CICA also works closely with organisations such as Victim Support Scotland who can provide information and assistance.

You may also be able to get information about compensation from other places, including a solicitor, or Citizens Advice Scotland.

Can I claim back expenses such as travel and childcare?

Using the form on the back of your witness citation, you can claim expenses for travelling to and from the court and an allowance for meals. Cash payments are only made in cases of genuine hardship or emergency. Exceptional costs such as taxi fares, air travel and overnight accommodation **must be approved by the procurator fiscal in advance.**

**“SOMETIMES A COURT WILL
AWARD COMPENSATION TO
A VICTIM OF A CRIME.”**

Claims can be made for loss of earnings for witnesses who are employed and self-employed. There are no childcare facilities at court buildings so prosecution witnesses can claim expenses for childcare and babysitting at fixed rates. If you need to organise care cover in your absence, you will be reimbursed at a fixed rate.

The police took some of my property as part of an investigation—can I get them back?

Property is returned by the police once the case is finished and the appeal period has passed, which is usually around six to eight weeks. Your police officer or local Victim Support Service can provide more information about how to go about this.



RIGHT TO RECEIVE MINIMUM STANDARDS OF SERVICE

Section 1 of the Victims and Witnesses (Scotland) Act 2014 places a duty on each of the following agencies to **have regard to four general principles** whilst carrying out any functions they have in relation to victims and witnesses:

- Police Scotland
- Crown Office and Procurator Fiscal Service
- Scottish Court Service
- Scottish Prison Service
- Parole Board for Scotland

The general principles focus on providing access to information and support, ensuring safety and facilitating effective participation in the justice system.

Standards of Service

- The above agencies have all **set and publish standards** in relation to the functions they provide for victims and witnesses who are going through criminal justice processes. As well as this, they must also publish standards in relation to the procedure for **making and resolving complaints** about the way each organisation has carried out their functions.
- The standards are intended to inform victims and witnesses as to **what to expect in their interaction with these organisations** and will contain information specific to the functions of each organisation.
- Each agency must **publish an annual report** on how they have met the standards they have set, how they intend to meet the standards for the next year, any

“EACH AGENCY MUST PUBLISH AN ANNUAL REPORT.”

changes they have made or intend to make to the standards. The first report must be published within 12 months of the standards being published, but can be published earlier if the organisation

wants to tie this in with their annual report.

- Before publishing the standards, the **organisations must consult with each other and others with a significant interest** (e.g. Victim Support Scotland and other victim agencies).





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