



# SCOTTISH COURT SERVICE

## Interpreting in the Criminal Court

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### GENERAL BRIEFING FOR INTERPRETERS

- If you have never interpreted in court before please advise the interpreting service. It may be possible to arrange a visit to the court for you and an explanation of the likely procedure from a member of the court staff.
- Remember that as an interpreter in the criminal court you are entirely independent of the parties. You must perform your role in a wholly independent and impartial manner.
- Be confident. Your role is essential to ensure that the proceedings are fair. If those speaking are going too quickly to allow you to interpret properly let the judge know.
- In community, foreign and sign languages, there may be no equivalent term to the English term or phrase being used. It is crucially important that you interpret as closely as possible the meaning of the terms being used. Do not guess. Advise the court of the difficulty at the time. It is likely that it will be possible for the individual using the difficult term to "say it in a different way".
- Please ensure that you consider, sign and return the Code of Conduct provided with the letter of instruction before accepting an assignment from the Scottish Court Service.
- Remember that your concentration can lapse in long periods of simultaneous or consecutive interpreting. Be sure to alert the court to this and to the need for regular breaks (every 30 minutes or so).

### GLOSSARY OF TERMS

#### People and Places

**High Court of Justiciary:** As a trial court it has sole jurisdiction to hear the most grave common law crimes such as murder and rape. It deals with the most serious crimes. It can impose up to life imprisonment and there is no limit on the monetary penalty it can impose. As an appeal court of 3 or more

judges it hears appeals from all other courts including appeals from itself as a trial court. Uses only solemn procedure.

**Sheriff Court:** Uses both summary and solemn procedure. In summary offences the Sheriff can fine up to £5000 and imprison a first offender for 3 months. Certain repeat offenders can be imprisoned up to 6 months. When using solemn procedure the Sheriff can imprison for up to 3 years, impose an unlimited fine, or if the Sheriff thinks the case is serious enough can remit the accused to the High Court for sentencing.

**District Court:** Lay persons sit as justices of the peace with a legally qualified assessor. A justice may sit alone or more than one can sit together. Can imprison for up to 60 days or impose a fine not exceeding £2,500. Deals only with summary procedure, and more minor offences. Has a power to remit a case to the Sheriff court but this power is seldom exercised.

**Lord Advocate:** The head of the prosecution service in Scotland. Issues instructions and guidance to Procurators Fiscal and to the police. A minister in the Scottish Executive, his/her deputy is known as the Solicitor General. They are assisted by advocates depute. The Lord Advocate, or more usually advocates depute will conduct trials in the High Court.

**Procurator Fiscal:** Local prosecutors throughout Scotland, assisted by one or more Procurator Fiscal Deputes who conduct prosecutions in the Sheriff and District Courts and prepare serious cases by way of Precognition.

**Accused:** The person who sits in the dock accused of committing the crime on the indictment or complaint. The accused is sometimes called the "panel" in solemn procedure.

**Defence Agent:** This term includes the lawyers, a solicitor or advocate, who will act on behalf of an accused.

**Clerk:** Each court will have a clerk who will normally sit in front of the judge and record the proceedings.

### Legal Terms & Procedure

**Solemn Procedure:** Uses a jury (of 15) to hear more serious cases. Notification of the charges is contained in an indictment that runs in the name of the Lord Advocate.

**Summary Procedure:** No jury, hears more minor cases. Notification of the charges is contained in a complaint that runs in the name of the local Procurator Fiscal.

**Common Law:** Has built up over time through custom and practice and decisions of the courts. Most crimes are crimes at common law, e.g. murder, rape, assault, theft.

**Statutory Law:** Parliament either in Westminster or Edinburgh can legislate to make certain actions criminal. Such legislation may also alter the powers of sentencing. Examples include Road Traffic Act 1988 and Misuse of Drugs Act 1971.

**Public Interest:** All crimes are prosecuted in the public interest. A prosecution can take place even where the parties involved have come to some form of private agreement. The Lord Advocate and Procurators Fiscal decide whether to prosecute.

**Precognition:** The process by which a Procurator Fiscal prepares a case under solemn procedure. This will include interviewing witnesses at his/her office.

**Bail:** An accused person may be released from custody on bail. Conditions are attached and extra conditions, such as not to enter a specified area or contact a named individual, may be imposed. Only a court can alter a bail order, regardless of what a witness may say. An accused can be arrested and jailed for breaching a bail order.

**Social Enquiry Report:** Prepared by a social worker who reports to the court on an accused's personal circumstances and their suitability for the various types of sentence.

### Types of Court

**Custody Court:** Where people appearing from custody first appear. Under solemn procedure an accused will appear on petition and may be committed for further examination or fully committed until liberated in due course of law. The accused is not asked to plead guilty or not guilty. Under summary procedure the accused is asked to plead guilty or not guilty. In both forms of procedure the accused may ask the court to be released on bail, and the Procurator Fiscal may indicate whether he/she opposes this. If opposed the Sheriff or Justice will decide if an accused is released on bail.

**Diet Court or Pleas Court:** Under summary procedure the first calling of non-custody cases, when the accused is asked to plead guilty or not guilty.

**Intermediate Diet Court:** For summary cases, a week or two before the trial, at which the accused must appear and state his/her plea and preparedness for trial.

**First Diet Court:** For solemn cases, a week or two before the trial at which the accused must appear and state his/her plea and preparedness for trial.

**Trial Court:** Where trials take place, can often be more than one in busier courts.

**Remand Court:** Deal with continued business such as deferred sentences.

**Fines Enquiry Court:** Where the court will ask an accused why they have not paid their fine. Can give them more time to pay, a supervised attendance order or order imprisonment.

### Type of Sentence

**Absolute Discharge:** A court may in exceptional circumstances grant an absolute discharge; whilst the accused has been convicted, no criminal conviction is recorded against their name and they are free to go.

**Admonished:** Warned by the court to behave.

**Community Service Order:** Unpaid work for the community, administered by the Social Work Department.

**Deferred Sentence:** Court may defer sentence for a number of reasons. It may defer for up to a year to see if an accused person has been of good behaviour.

**Disqualification:** Court may disqualify an accused from driving for a specified period.

**Drug Treatment and Testing Order:** Intensive form of probation in which an accused undertakes compulsory drug treatment and testing.

**Endorsement:** In driving offences penalty points may be endorsed on a driving licence.

**Fine:** Can be paid by instalments. Payments are to the clerk.

**Imprisonment:** Sent to jail.

**Probation:** Can involve additional conditions, such as to undergo medical treatment, but will involve compulsory meetings with a social worker to discuss the problems in an accused's life, e.g. alcoholism, drug addiction.

**Supervised Attendance Order:** If a fine is unpaid court may impose such an order requiring an accused to attend at a scheme run by the social work department.