

At the trial, the judge will listen to all the evidence and decide whether the verdict is guilty, not guilty or not proven. If not guilty or not proven, the accused can leave court and that is the end of the case. See Stage 4 for what happens if the accused is found guilty.

#### Additional support

If your first or preferred language is not English, you may need an interpreter to explain what is being said in court or to help you give evidence. This may be necessary even if you know enough English for everyday life.

You may also need to have any documents, such as letters from the fiscal, given to you in your preferred language.

Anyone who gives evidence in court must first promise to tell the truth. You can give this promise in a way that fits with your religion, language or culture.

VIA can help arrange additional support including getting into the court, or may be able to apply for you to get help when giving evidence.

Please tell VIA if you have any concerns or specific needs. We can then make sure that the fiscal is aware of these.

## Stage 4

### Sentence

Sometimes, the judge sentences the offender immediately after they have pled or are found guilty.

Sometimes, the judge adjourns the case (allows time) to consider more information before sentencing.

If the judge is considering a custodial sentence (prison), background reports must be obtained if the offender is under 21 or has not been in prison before.

If a judge asks for a background report, or other information, it does not necessarily mean they are thinking of sending the offender to prison. Sometimes a judge is simply considering the best way of dealing with the case.

The judge will also decide whether the offender will be imprisoned until the sentence is passed. VIA will keep you informed of this if you are not at court.

## Local Support Agencies

You may wish to contact:

**Victim Support Scotland** which provides practical and emotional support to all victims of crime. For local details, contact **0845 60 39 213** (during office hours) or go to [www.victimsupport.org](http://www.victimsupport.org)

the **Witness Service** which provides emotional and practical support to all victims and witnesses, and their family and friends, when attending court. For local Witness Service details please contact Victim Support Scotland.

VIA can also help put you in touch with other support organisations.

## Further Information

If you would like any further information or if there is anything you are unsure about, please contact your local VIA office, at the telephone number on the enclosed letter.

Alternatively, please contact the VIA National Team:

by telephone on 0131 243 3027 or  
0844 561 3701

by fax on 0844 561 4180

or by e-mail at  
[\\_vianationalteam@copfs.gsi.gov.uk](mailto:_vianationalteam@copfs.gsi.gov.uk)

# information

About trials (Summary)



## Information and Advice

**Victim Information and Advice (VIA)** has given you this leaflet because you are the victim of, and/or witness to, a crime which is going to trial. This is to be a Summary Trial which will take place in the District or Sheriff Court.

District Courts in Scotland are being renamed Justice of the Peace Courts. This change will happen at different times in different parts of Scotland between March 2008 and October 2009.

A Justice of the Peace, Stipendiary Magistrate, or Sheriff, acting as a "judge", will decide the verdict and any sentence. There is no jury.

This leaflet describes the stages of a summary trial and tells you when witnesses may have to attend court.

Being involved in the criminal justice system can be daunting and giving evidence at a trial can cause stress and anxiety. VIA can help you.

## About VIA

The leaflet *VIA – How we can help* explains what VIA does and what we can do to help you.

If you do not want VIA's help, just let us know. If you then change your mind, please contact us.

We hope this leaflet will answer some of the questions you may have. Please ask us if there

is anything else that you would like to know or are unsure about.

### What information can the defence get?

Any statement that you gave to the police may be given to the defence solicitor in the first few weeks after the case is reported to the fiscal. This is a normal and necessary part of the procedure. It ensures the defence solicitor is aware of all the evidence and can represent the accused fairly. In some cases, the witness statements and contact details will not be given immediately or may be edited. VIA can explain what has happened in your case.

The defence solicitor is also usually entitled to receive details of any previous convictions or pending cases which a witness may have. The court will not always allow this information to be mentioned during a trial but may do so if it is relevant to the evidence the witness will be giving.

Defence solicitors are not allowed to pass any witness statements or contact details to the accused. If you have any concerns about the information that may have been passed to the defence, let VIA know.

### Statements to the defence solicitor

The defence solicitor (or someone working for them, known as a precognition agent) might ask

you to give a statement (sometimes called a defence precognition). They may ask you to go to their office or may want to visit you at home or at work. You can ask for the meeting to be at a place and at a time that is convenient for you. VIA can arrange for the meeting to be at a police station or the fiscal's office if you prefer. You can also ask to have someone with you.

You must give a statement if you are asked to do so. This gives the defence solicitor a better idea of the evidence and helps them advise the accused how to plead (guilty or not guilty). This sometimes means that a trial can be avoided, or that your evidence is agreed so you do not have to go to court at all.

The sections that follow explain the different stages of the court process.

## Stage 1

### Pleading Diet

#### (witnesses do not have to attend)

The person accused of the crime (the accused) has to say if they plead guilty or not guilty to the crime. The accused may not appear in court at this stage as in some cases this plea will be made in writing.

- Guilty

If the accused pleads guilty the judge will sentence them immediately or after more information is considered. This means that there is no trial and witnesses do not normally have to attend court.

- Not Guilty

If the accused pleads not guilty, the court will set two dates: an Intermediate Diet and a Trial Diet (more information about these hearings is given at Stages 2 and 3).

The judge decides what will happen to the accused before the next court date.

The accused will be remanded in custody (kept in prison) or released on bail (released on condition that they do not re-offend). VIA will tell you what decision the judge makes.

A list of prosecution witnesses is made available to the defence lawyers.

## Stage 2

### Intermediate Diet

#### (witnesses do not have to attend)

The accused is again asked to say whether they plead guilty or not guilty.

- Guilty

If the accused pleads guilty, the judge will sentence them immediately or after more information is considered. This means that there

is no trial and witnesses do not normally have to attend court.

- Not Guilty

If the accused pleads not guilty, there is an opportunity for both the prosecution and the defence to agree certain evidence and/or to ask for more time to prepare for trial.

The judge will now decide whether the accused will be remanded in custody or released on bail until the trial. VIA will let you know the decision.

If the accused is released on bail, the trial must start within a reasonable time.

If the accused is remanded in custody, the trial must start within 40 days of the first court appearance. This can only be extended in certain limited circumstances.

## Stage 3

### Trial Diet

#### (witnesses must attend)

If you are needed to give evidence, you will be sent a witness citation (letter), giving a date and time when you must attend court.

You may have to wait some time at court before you are asked into the courtroom. Depending on how the trial progresses, you may not be needed to give evidence, or you may be required to attend on another day.