



Court to Custody

Practical information to help defendants and their families prepare
for the possibility of custody



Contents

Introduction 2

Arrest 3

Bail 4

Custodial Remand 4

Planning Ahead 5

At Court 5

Sentence 7

Reception into Prison 7

Useful Contacts 9

INTRODUCTION

This booklet has been designed by Prisoners' Families and Friends Service to help defendants and their families prepare for the possibility of custody. It is meant to act as a guide. Always consult directly with your solicitor and/or prison for up-to-date information.

This can be a time of upheaval for both defendants and their families but realistic preparation can help to offset some of these difficulties. The practical points found in this booklet are based on real life experiences of problems that have arisen when dealing with the Criminal Justice System.

Prisoners' Families and Friends Service has been supporting prisoners' families for over 40 years with the aim of providing a high quality service for the partners, close relatives and friends of prisoners, offering support, advice and information which is free, confidential and appropriate to their needs.



ARREST

If you have been arrested and charged with a criminal offence the next step will be to appear before a Magistrates' Court. This could be as soon as the next working day. All criminal cases start here.

At the police station stage and again at the Magistrates' Court you will have the opportunity to consult a solicitor. If you do not have your own solicitor you can take advantage of the duty solicitor scheme. One way of finding a new solicitor is through the Community Legal Services directory. Information can either be found on their website www.clsdirect.org.uk or your local Citizens Advice Bureau or law centre.

Solicitors prepare cases according to the information and instructions they are given. To be effective they need truthfulness and co-operation from the start. Remember your family may be feeling distressed and under pressure at this time. It is helpful if you are honest and open and keep them informed.

Every criminal offence has its own minimum and maximum tariff. You should ask your solicitor what your risk of a custodial sentence is and how long it's likely to be. You will need to be realistic about your prospects as this will help you to plan accordingly. It is worth noting that imprisonment is the sentence most commonly imposed at Crown Courts. The proportion is much smaller at Magistrates' Courts but often remands in custody start here.

Criminal charges fall into three categories:

Summary offences are dealt with in a Magistrates' Court. A Magistrate's maximum

power of imprisonment is 6 months.

Indictable offences are considered too serious to be dealt with in the Magistrates' Court. They will always be sent on to the Crown Court and dealt with there.

Either-Way offences can be dealt with at either Court. The Magistrates will hear brief facts about the case and decide whether to keep it or commit to the Crown Court. Even if they decide to keep it, you still have the right to choose to be tried by a judge and jury at Crown Court.

REMAND

The period during which the case is being prepared is called the remand period. This may take some time as preparations for a court hearing can be complicated.

They can include

- Gathering evidence
- Securing witnesses
- Prosecution and defence exchanging evidence,
- Fixing a trial date

The insecurity of the remand period can affect areas like income, employment, security of housing and other domestic arrangements. Try to face these challenges together and decide on your best course of action.

There are bound to be tensions arising from uncertainties. Parents need to be careful about conversations in front of children and consider what to tell them and at what stage.

Remand can either be on bail or in custody.

BAIL

It is a principle of the Criminal Justice System that a defendant should be on bail unless there is good reason not to be. The opposite is true for offences such as murder. For these offences reasons need to be given for granting, rather than refusing bail. Common reasons for refusing bail are:

- The defendant may fail to turn up for their trial
- The defendant may interfere with witnesses
- The defendant might commit further offences before their trial

In making decisions about bail the Magistrates/Judge will consider:

- The seriousness of the charge
- Any previous convictions for similar offences
- Any record of previous breach of bail

Courts can impose various conditions of bail as an alternative to remanding in custody, for example

- Financial surety
- Condition of residence
- Condition not to contact witnesses
- Not to enter a specified area
- Report to a local police station at given times

CUSTODIAL REMAND

Custodial remand means spending the remand period in prison.

If the Magistrates Court refuses bail, it may be possible for your solicitor to make a further application for bail at the Crown Court. You may need to meet specific conditions for example an increased surety or change of residence. Otherwise you will be remanded into custody at a local prison. Therefore your prison experience will begin at this early stage in proceedings.

Custodial remand can be particularly testing for both families and defendant. If the family is unaware of consultations taking place within the prison between the defendant and their lawyer they may feel excluded. Solicitors have a duty of confidentiality to their client and may be reluctant to give away information concerning the case. The defendant may need to authorise the solicitor to pass on information to the family to ensure they are kept up to date.

Unconvicted prisoners are allowed more privileges than convicted prisoners, for example they can wear their own clothes and have more frequent visits without a visiting order. Remand visits must be pre-booked. The times and days for unconvicted prisoners' visits vary in each prison. The statutory requirement is 90 minutes visiting time every week and this can be divided into either daily or three days a week. It can be stressful, time-consuming and expensive if families are trying to visit every day.

You may need to be realistic about how often they can visit. It may be possible to condense visits. It is important to check

directly with the individual prison. This is a straightforward thing for anyone to do, you can find the number on a PFFS leaflet, look it up in the telephone directory or check on the HM Prison Service website <http://www.hmprisonservice.gov.uk>

N.B. When the Judge passes sentence s/he can order that any time spent on custodial remand or under certain conditions of bail, for example tagged curfew, can count towards time to be served in prison.

PLANNING AHEAD

It is important to be upfront with your solicitor and family. It is not helpful to keep back information or tell lies. If you have been advised that you should expect a prison sentence it is responsible to organise your affairs:

CHILDREN – If you have responsibilities for children it is most important that you consider their welfare. You will need to do everything you can to make sure they are looked after.

ACCOMMODATION – you will need to find out what your position would be with your mortgage provider, housing association, landlord etc. If you are unable to keep your home while in prison consider where you will be able to store your property.

HEALTH – It is a good idea to see your dentist and also see your doctor for details of any medication you may be currently taking.

EMPLOYMENT - If you are working, you need to consider how much and at what

stage to tell whoever is appropriate at work, depending on whether you are going for trial or for sentence. You may need to take into account what your entitlements may be for example, to earnings, pension contributions etc.

PETS – If you have domestic pets you will need to make arrangements for them.

As a general rule try to organise your affairs as much as possible, for example put all important papers (medical card, passport, birth certificate) in a safe place and let somebody know where these have been placed.

AT COURT

When you come to Court there are a number of things to bear in mind:

Turn up at the right Court there may be different Courts in the same area or building
Report to the usher of your courtroom when you arrive

Turn up on time being late is classed as a bail offence which you could be fined or imprisoned for if you do not have a good excuse

Try to be early you need some consultation time with your barrister and solicitor
Whatever time you have been told to turn up at Court does not guarantee the time that your case will be heard

Your family in the courtroom sometimes the public gallery has its entrance separate from the courtroom and it may mean that you cannot see your family

Children under 14 are not normally allowed in the public gallery without the

Judge's permission. Do make appropriate childcare arrangements wherever possible as Courts do not have child-minding facilities

Support for your family if a friend or family member comes with you, they may need some moral support too so that they do not have to go home alone

Bring some loose change when there is a lot of waiting around, it is a good idea to have some loose change with you for refreshments

Every Court has a Witness Service team which can support families involved in a trial. You can contact them in advance.

If you enter the dock from bail, technically you surrender your bail at this point and become subject to prison rules. This may mean being searched, with all metal objects and mobile phones being taken off you. You could be remanded to the cells during a lunch break if your hearing has not been completed.

If the outcome of the hearing is custody, remember that members of the public are not allowed to visit defendants in the cells. You may need to have said your goodbyes in advance.

Whatever you take with you into the dock will go with you into the cells and this is the most straightforward way of taking property with you into prison. It is a good idea to take with you into the dock a small bag that can hold your things. The property you are allowed to take into prisons does vary but the following list of initial property is suggested:

- Cash *
- Something to read
- Envelopes, stamps and address book
- Something to write with

- Battery operated radio
- Changes of underwear and socks (other clothes provided by the prison to convicted prisoners)

* there is no actual limit on how much money you can take into the prison. However, you should consider how much is needed by your family outside. Any cash on you at court will go into your prison account. This is much easier than your family sending money in to you afterwards. Account money can be spent on one day per week on a limited range of items from the prison canteen. The standard weekly spending allowance for a convicted prisoner from April 2003 is £12.50.

Women prisoners are allowed to wear their own clothes. It is a good idea to consult your local women's prison to find out what rules apply.

NB Mobile phones are banned in prisons. If you do have one on you it will certainly be taken from you and put in secure storage.

If you take other property in with you that the prison does not allow, these things will be put in stored property, for safekeeping or for a visitor to collect. All Courts operate a strict no smoking policy and this applies to the cells area. It is a good idea to leave any cigarettes or tobacco with your family when you go into the dock. Also, it is a good idea that your family keep hold of any bank cards and house or car keys before you go into the dock as these may be difficult to retrieve once you are taken down into the Court cells.

Although you may wish to appear smartly dressed before the judge s/he will not be able to see your feet. As you may only be

allowed one or two pairs of shoes in prison, it is best to wear your most comfortable shoes (trainers are ideal in prison). It is easier to have suitable footwear already in your possession than for your family to try sending shoes in to you in prison afterwards. It is not normal practice in Courts for a change of clothing to be accepted by cells staff.

SENTENCE

Once sentence has been passed you will immediately be taken down to the cells. You should receive a visit from your solicitor or barrister, and possibly the Duty Probation Officer. They can discuss with you the implications of your sentence and the possibility of appeal. This can be quite a technical, legal matter that will need to be discussed in greater detail once you are in prison.

Family and friends may want to consult with your barrister or legal representative as they will not have access to the cells to visit you. They can ask to confirm with the cells staff details about which prison you are going to.

In the cells, staff will process and bag up your property which you will need to sign for. Depending on the time of day you have been sentenced you may have a long wait ahead of you until the prison van is ready to leave the Court.

If you are a family member who is worried about the prisoner's mental health or vulnerability there are steps you can take. You can make a point of speaking to the



barrister or going direct to the cells area and speaking to the custody staff. If you are concerned that the prisoner may be at risk of possible acts of self-harm or suicidal thoughts, it is important that court cells staff are made aware. They can alert the prison escort service and reception staff at the prison.

RECEPTION INTO PRISON

There is a standard reception procedure when you get into the prison. It will involve queuing, dealing with paperwork and property and having your photo taken.

For male prisoners there is a routine strip-search, which is intended for security purposes, for example to make sure you do not have drugs, weapons or a phone concealed on your person. The search is covered by guidelines, for example it must be out of sight of other prisoners and carried out by one or two officers of the same sex as you. Women are no longer subject to

PHOTO BY DAVID LEVANTIS

a routine search but may be searched on suspicion or intelligence.

You will be offered a shower and issued with prison clothes, underwear and basic toiletries such as

- Soap
- Shampoo
- Toothpaste
- Toothbrush
- Deodorant

You will then be put into a cell to wait until everyone else has been processed.

You will be offered either a smoker's or non-smoker's pack, the cost of which will be deducted from your prison account. This will include tobacco for smokers and some sweets and biscuits.

You will be given a PIN account for telephone calls. The system works on a rationed credit basis and it will take some time for your selected list of contacts to be approved. But you will be given a small initial credit to make a short call home, maybe that evening or the following day (there can be exceptions where there are public protection concerns).

At reception you will be told your Prison Number. You will keep this number if you progress from remand to sentence or if you move prisons. Your family needs to know this number as soon as possible to help book visits and/or to write to you.

All convicted prisoners are allowed one visit every two weeks and a reception visit within the first month. The length of a visit can vary depending on how busy the day is, but it should be at least half an hour. Prisoners

may need to send out a visiting order for the reception visit or their family may be able to book without one – check directly with the individual prison. After the first reception visit all visitors will require a visiting order to book their visit.

Those serving a short sentence often remain at the prison local to the Court where they appeared. Other prisoners will probably be moved (sometimes a long way from home) according to the security category given on reception. There are 4 categories for men:

- **Category A** is maximum security.
- **Category B** is less than highest security but for whom escape must be made very difficult
- **Category C** is less secure than B, but more than D
- **Category D** is for prisoners trusted to serve in open conditions.

Female prisoners and young offenders are simply classified as suitable for open or closed conditions.

During a lengthy sentence, it is possible for a prisoner to progress from a higher to a lower category.

If your close family is on benefits or a low income they may be eligible for assistance with the travel costs of visiting a prison. This is known as the Assisted Prison Visits Scheme. Please contact Prisoners' Families and Friends Service for further information.

In any event, Prisoners' Families and Friends Service welcomes families and friends of prisoners to keep in touch during and after time served in prison. We have a wide breadth of experience in the field and can be a useful source of information and support.

Useful Contacts

Prisoners' Families and Friends Service

- Address: 20 Trinity Street, London SE1 1DB
- Tel: 020 7403 4091/9359
- Fax: 020 7403 9359
- Freephone 0808 808 3444
- Web: www.pffs.org.uk
- Email: info@pffs.org.uk

Prison Advice and Care Trust

- Address: Suite 5, City Cloisters
196 Old Street
London EC1V 9FR
- Phone 020 7490 3139
- Web: www.prisonadvice.org.uk
- Email: info@prisonadvice.org.uk

Sharp

- Address: Fletcher House
15 College Hill
Shrewsbury
SY1 1LJ
- Tel: 01743 245365
- Web: www.s.h.a.r.p.org.uk
- Email: sharpilary@gahoo.com

Assisted Prison Visits Unit

- Address: PO Box 2152
Birmingham B15 1BR
- Tel: 0845 300 1423

Action For Prisoners' Families

- Address: Unit 21 Carlson Court
116 Putney Bridge Road
London SW15 2NQ
- Tel: 020 8812 3600
- Fax: 020 8871 0473
- Web: www.actionpf.org.uk
- Email: info@actionpf.org.uk

Prisoners' Families Helpline

- Tel: 0808 808 2003
- Web: www.prisonersfamilieshelpline.org.uk

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and in
confidence on**

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