



Sentences of the court, and glossary of commonly-used legal terms.

SECTION 1: TYPES OF SENTENCES and COURT ORDERS

ABSOLUTE DISCHARGE

This may be imposed when the court considers that although an offence has been committed, little or no blame should be attached to the offender. It does NOT count as a conviction.

ADMONITION

A formal warning without further punishment, most often used when the Court feels that an offence has been committed, but it is not particularly serious. Admonitions DO count as convictions.

BAIL SUPERVISION ORDER

Not a sentence, but a type of Supervision carried out by the CJ SW Service. If placing someone on *Bail*, the court may order them to be under the supervision of a Social Worker; they have to attend three times a week for appointments, and if they do not comply, the court is likely to consider a custodial remand (see Glossary).

CAUTION

This sentence (pronounced Kay'shun) is rarely used now. The offender may be offered the chance to pay a sum of money into court as a surety against his or her future good behaviour. The court decides the period of the order, and if the person has been of good behaviour, at the end of the period the money is returned, with interest! Unlike a fine, there is no option of paying up the money over a period of time, one of the reasons this has become less popular.

COMMUNITY SERVICE ORDER (CSO)

This order is imposed as a direct alternative to custody. The offender is required to undertake a specified number of hours of unpaid work in the community, between 80 and 240 hours if appearing on a summary charge, and between 80 and 300 hours if appearing on Indictment (see Glossary of terms).

It is possible to add a condition of Unpaid Work to a Probation Order, and this is managed in the same way as Community Service (minimum is 40 hours). The CSO is not available to Justice of the Peace Courts.

Breach (see Glossary) is quite likely to result in imprisonment.

COMPENSATION ORDER

This is paid to the victim by the offender and is collected by the Sheriff Clerk's office. A Compensation Order can be made alongside most other sentences, and is the main exception to the principle of "one offence, one sentence".

CUSTODIAL SENTENCE

This can be imposed by any level of Court. Summary Complaints attract sentences of (usually) 3, 6 or 9 months, depending upon how many complaints are being heard. Prison sentences can be imposed to run alongside each other (concurrent) or following one another (consecutive).

Indictments attract longer sentences which can vary in length up to and including a life sentence. The maximum sentence which can be imposed by a Sheriff is three years for indictments. Young offenders (under 21) and adult offenders who have not previously been sentenced to imprisonment require a Social Enquiry Report (SER) to be prepared before they are sentenced to custody.

Under-21 year-olds will serve their sentence in a Young Offenders' Institution (YOI).

DEFERRED SENTENCE

This outcome of a court appearance is NOT a sentence, but is used for two main reasons

1. The sentencer wishes more information before proceeding to sentence (e.g. obtaining a psychiatric report). This is usually a short deferment of a few weeks to allow for the information to be gathered.
2. The sentencer wishes to defer for good behaviour, or for compensation to be saved up by the offender. This is usually a longer deferment period (six months to one year).

The sentence is imposed at the end of the deferment period. Therefore it is not competent to recommend a deferment and a sentence on a single complaint (although the court may impose a sentence on one of multiple cases, while deferring sentence on another).

FINE

This is the most common sentence imposed by the Courts. Usually the court will allow time for payment. This is done directly to the Sheriff Clerks Office.

In the event of someone not keeping up their payments, there are various ways that the court may deal with the matter. It is now possible for the court to arrange for direct deduction from benefits or wages; if this does not happen, a Fines Enforcement Officer (FEO) can be appointed by the court; the FEO will encourage payment and negotiate ways that this is to be done.

The court may not normally imprison someone who has failed to pay a fine without trying all alternatives. The Supervised Attendance Order (SAO) (see below) must now be imposed first.

Sometimes a fine will be imposed with "no time to pay". A custodial sentence is then imposed straight away in default. This is usually at the offender's request, when he or she knows that they are going to be remaining in prison anyway (e.g. because of other continuing cases.)

FISCAL FINE (also known as Procurator Fiscal Fine)

Not a sentence; the Procurator Fiscal (PF) may offer a fixed-penalty fine in certain circumstances. We are not allowed to refer to these in court reports or other court proceedings.

DRUG TREATMENT AND TESTING ORDERS

This order requires the offender to undertake regular drug-testing, to co-operate with a programme to reduce drug use, and to meet frequently each week with staff who will help with this. Progress is monitored by regular reviews at Court. The duration of the order can vary between six months and three years. This order is appropriate when there is a strong link between drug-taking and offending.

PAROLE LICENCE (See *Prison Throughcare* in this section)

PRISON THROUGH CARE

The work of the Throughcare Team covers a number of different post-release orders, as well as voluntary contact with offenders who are not subject to statutory supervision. Workers will keep contact with prisoners and their families prior to release, and will work with prison-based staff to make the transition back to the community as straightforward as possible. This will include involvement in *Risk Management* meetings (Section 2)

PROBATION ORDER

This order can be imposed by any level of Court for a minimum of six months and a maximum of three years. The supervising officer is responsible to the Court for supervising the offender and for reporting any breach of conditions. Probation orders can be imposed with conditions (e.g. restitution, special drug programmes etc).

While there is a punishment element to Probation (in terms of the demands it makes on an offender to attend appointments, the primary focuses of Probation are:

- Helping the offender change patterns of behaviour that result in offending
- Monitoring his or her behaviour in the community

Breach proceedings (see Glossary) may result from: failing to keep to the conditions of the order (non-attendance, etc); committing a further offence while on Probation; or both.

PROSECUTION DIVERSION

Not a sentence, Prosecution Diversion is (as its name suggests) used to divert people away from prosecution and the court system. Following discussion between the Procurator Fiscal (see Glossary) and the PD worker, contact is made with a view to assisting with the problems that led to the person being charged. If there is no co-operation, the case can be reconsidered for prosecution.

RESTITUTION

The court may want an offender, as a condition of a probation order, to recompense their victim for financial loss. It is the supervising officer's duty to ensure that the restitution is paid to the victim before the end of the order. If this has not been done, it constitutes a breach of the order for non-compliance. (See Glossary)

RESTRICTION OF LIBERTY ORDER (RLO)

A RLO is imposed only after a report has been submitted to court, identifying that there is a suitable address, and that the householder and other residents there have no objections to the address being used. The offender has to wear a 'tag' round the ankle, and there has to be a monitoring unit installed in the home.

The periods of restriction are decided by the sentencer, with the most common being 7 pm to 7 am. During that time, the monitoring centre, currently run on contract to the Scottish Government by Serco, will contact the monitoring unit, which checks the offender is present. If not, a Serco officer will call to the address.

Breach proceedings (see Glossary) are as of other court orders.

Some sentencers consider the RLO a means of keeping offenders away from risky situations (eg stopping them going out drinking at night), while other see it in effect as part-time custody in the community. It can be used as a means of keeping offenders away from a place; domestic violence perpetrators could be tagged and have a monitoring unit installed at their partner's address to prevent them approaching that address at any time. This option is however rarely used.

SUPERVISED ATTENDANCE ORDER (SAO)

Unpaid work imposed as an alternative to an unpaid fine, which is revoked. Hours range from 10 – 100, and the operation of this is the same as the CSO. If the order is breached, the court has restricted powers – it can continue the order, revoke it or impose a period of custody. It cannot re-impose the original fine.

WORK OFFER/WORK ORDER

Not a sentence, but a work-based equivalent to the Procurator Fiscal Fine, the Work Order is broadly similar to the CSO or the SAO. Hours range is 10 - 50. It is offered by the PF instead of prosecution. Disciplinary procedure as for those orders, but in the event of default, the case is passed back to the PF, who will prosecute the case.

This pilot project is most often used for young offenders, and we have to make separate work placements available, so they do not mix with more regular or serious offenders.

SECTION 2: Glossary of commonly used terms and descriptions

(Words in *italics* cross-refer to other entries)

ALTERNATIVE

This is imposed for fine payment default. If further payments are missed, a custodial sentence will be imposed as an alternative.

BAIL

If someone is released on Bail pending further court proceedings, they are required to agree to a range of standard conditions, and may be required to agree also to special conditions (a curfew to their home address; not to approach specified individuals or locations; to attend for *Bail Supervision*). There is now NO financial surety component to Bail, this having been abandoned several decades ago in Scotland. See *Bail Supervision* in Section 1.

BREACH PROCEEDINGS

Failure to keep to the conditions of a court order starts a process of formal warnings, ending up in Breach Proceedings, where the Supervising Officer makes a formal report to the court explaining why the offender is in breach of the order. This will usually be because of non-attendance for interview or work appointments. An offender on Probation may also breach the order by commission of a further offence (thereby being demonstrably not of good behaviour!)

The offender has the right to deny the grounds of a breach, and a Proof Hearing (similar to a trial) will be set, to allow evidence to be led on both sides.

The powers of the court if the breach is proved depend on the order in question.

CITATION/CITED TO COURT

This is the official notification issued by the Sheriff Clerk's office to attend Court, as an accused person or a witness. This is issued when the people cited are likely to attend.

COMMON LAW OFFENCE

An offence which has been historically recognised as such, without being defined in specific legislation (eg theft, murder). Such offences are increasingly being defined in legislation. See *Crime*

COMPLAINT

The formal name for the sheet of charges where someone is appearing on *Summary Procedure*

CRIME

A violation of *Common Law* (e.g. theft).

CROWN OFFICE / PROCURATOR FISCAL SERVICE (COPFS)

The organisation which manages the *Procurator Fiscal Service*. The Crown Office has a direct rôle in considering which cases should be handled on *Solemn Proceedings*.

CUSTODIAL REMAND (remanded in custody)

Used pre-sentence for offenders when:

- They are appearing on serious matters
- They have an extensive record of offending
- They have a record of non-appearance at court

Remand prisoners have more visit privileges than convicted prisoners.

DEFERRED SENTENCE (also see Section 1)

Often appears on paperwork as S/D (sentence deferred)

DETERMINATE SENTENCE

A sentence of a specified length, as its name suggest. Compare with *INDETERMINATE SENTENCE*.

DESERTED PRO LOCO ET TEMPORE (DPLT)

A case has been halted by the Procurator Fiscal, but may be taken up again ("abandoned at this time and place").

DESERTED SIMPLICITER (not usually abbreviated)

A case has been abandoned by the Procurator Fiscal ("simply abandoned").

DISTRICT COURT

See *Justice of the Peace Court*

FINES ENQUIRY REPORT (FER)

A short Social Work report to help the court understand why someone has not paid a fine, and what alternatives may be available.

INDETERMINATE SENTENCE

This is a sentence that has no specified end point (e.g. life sentence or hospital order).

INDICTMENT

The formal name for the sheet of charges where someone is appearing on *Solemn Procedure*. Hence 'On indictment' means 'on Solemn Procedure'.

INTERIM LIB (INTERIM LIBERATION)

The accused has been liberated pending an appeal.

JUSTICE OF THE PEACE COURT (JP Court)

Previously known as the District Court, the JP Court deals with the least serious of offences that are considered to require to be prosecuted. Justices are lay people, who are given legal advice when required.

LSI-R [The level of Service Inventory (Revised)]

An assessment tool to determine the statistical likelihood of re-offending, and to help work out what services should be offered to reduce this risk.

MAPPA (Multi-Agency Public Protection Arrangements)

Currently used to ensure that all organisations involved in the management, supervision and monitoring of sexual offenders are working to an agreed agenda, and that roles and responsibilities are clearly defined. Will soon also be used in respect of the more violent offenders.

MEANS ENQUIRY REPORT (MER)

The same as a *Fines Enquiry Report*. This term is going out of use.

MY LORD / MY LADY

(Usually pronounced "m'lord/m'lady".) Proper form of address for a Sheriff or Judge.

OFF7

The name of the Court Report Referral sheet used by WLC (and other councils from the former Lothian Region).

OFFENCE

Violations of a particular Act of Parliament (e.g. road traffic act).

ORDAINED TO APPEAR

Where there are no concerns about someone failing to attend court, they may be ordained to appear. This has no conditions attached – it is simply an instruction. If they then do not do so, other steps may be taken (*bail* or custodial remand).

PETITION

The beginning of the *indictment* process. If remanded, the offender is placed on petition in the first instance for 7 days (known as a seven day lie down). If a custodial remand on indictment is continued, the case must be called within 110 days. If bailed on indictment, the case must be called within 1 year. The charge may be reduced to *Summary Procedure*, in which case it is heard by the Sheriff Court.

PREVIOUS CONVICTIONS (PCs)

PCs are obtained from the Scottish Criminal Record Office's (SCRO) Criminal History System (CHS). This is a full list of the offender's involvement with the criminal justice system, and includes information that would not require to be disclosed in terms of the Rehabilitation of Offenders Act.

PROCURATOR FISCAL (PF)

The office responsible for deciding whether to prosecute individuals and which level of Court should be involved. Also responsible for use of other non-court options – Prosecution Diversion, Fiscal Fines, and Work Offers/Orders.

RA1 - 4

The names of the four *Risk Assessment* Tools in the Risk Assessment Guidance Framework (RAGF). In West Lothian we use only RA3 and RA4, which assess Risk of Harm

REMAND

A remand means that the Court has found the accused guilty, or there has been a guilty plea. There are two types of remand. **Remand in custody** when the offender is held in prison and **Remand on bail** when the offender is at liberty. Remands are usually issued for the preparation of reports.

REVIEW APPLICATION

If there are reasons why someone can no longer comply with a court order, A Review application provides a process in which the situation can be reviewed, the court has to be clear that this is a genuine reason. This is a different activity from the case review process that we are expected to carry out for Probation Orders and Parole Licences, which is about checking that we and the offender are doing all the things we agreed we should.

RISK ASSESSMENT (RA) and RISK MANAGEMENT (RM)

We assess Risk of Re-offending and Risk of Harm, using a range of different Risk Assessment Tools. Some are general (such as *LSI-R* and *RA1-4*). Other are specific, such as the Sex Offender RA tools (Risk Matrix 2000, and Stable and Acute 2007), or Domestic Violence Risk tools such as Spousal Assault Risk Assessment (SARA).

No risk assessment tool should be used without appropriate training.

Risk Management is an integral part of all our work. We also co-ordinate our activities with other organisations, through Risk Management meetings and *MAPP*A meetings.

Child Protection (CP) and Protection of Vulnerable Adults (POVA) are crucial components in our risk management processes.

Scottish Courts Service (SCS)

Formerly known as The Scottish Courts Administration, now responsible for the smooth running of all courts in Scotland.

S/D

See *Deferred Sentence*

SECTION 229

Colloquially used to describe a Probation Order with a condition of Unpaid Work (the number of the relevant section of the Criminal Procedure (Scotland) Act 1995).

“SEVEN DAY LIE DOWN”

Colloquially used when an offender is remanded on initial *petition*. At the end of this period a decision is taken whether to proceed under solemn or summary procedures.

SCHEDULE 1

This classification covers a variety of offences against children, and refers to both physical and sexual offences. It includes Unlawful Sexual Intercourse (USI) - having sex with a minor who is deemed not able to give consent to sex.

A Schedule 1 offender should be ‘flagged’ on Swift.

SHERIFF CLERK’S OFFICE

The office responsible for the administration of the Court (e.g. citing accused to Court, witnesses and overseeing fine payments).

SUMMARY PROCEDURE

This procedure is used for charges of a less serious nature and is issued by the procurator fiscal. Complaints can be dealt with by the Sheriff Court or the District Court. Usually the maximum sentence is 3 months custodial on a single complaint. There is a maximum sentence of six months on any one complaint if there is a previous conviction if violence. Separate complaints can attract different sentences.

SOLEMN PROCEDURE

This is a Criminal procedure used for serious or very persistent offending. Indictments are heard by a judge and jury (Sheriff Court or High Court). Indictments attract a more severe sentence.

UNDERTAKING

At the point of arrest, police officers may now issue an Undertaking, whereby the accused person signs to confirm that they will attend court on a set date.

WARRANT TO APPREHEND (W.T.A)

This authorisation to arrest someone is normally issued when the Court is unsure of the offender's whereabouts, or when there has been a failure to attend court for a previous appearance.

YOUR HONOUR

Proper form of address for a justice in the *Justice of the Peace Court*.