

High Court of Justiciary

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The coat of arms of the King, which is used in the High Court

Established	1672; 352 years ago
Country	Scotland
Number of positions	36
Website	www.scotcourts.gov.uk

Lord Justice General (chief judge)

Currently Lord Carloway

The **High Court of Justiciary** is the [most powerful criminal court](#) in [Scotland](#).^[1] It can hear a case that has been [appealed](#) (where one of the people involved think a case has been decided wrongly), or if it is a serious case it can be the first court to hear it. When hearing a case that has been appealed, it is sometimes called the **Court of Criminal Appeal**.^[2]

It has 36 [judges](#), who are called *Lord Commissioners of Justiciary*. They are also judges for the [Court of Session](#). The chief judge is called the [Lord Justice General](#), and is also always the chief judge for the Court of Session, where he is called the *Lord President*. His deputy is called the [Lord Justice Clerk](#).

When it is the first court to hear a case, it can sit in a number of locations. Its permanent locations are in [Aberdeen](#), [Glasgow](#), and [Edinburgh](#), but it also sits in other towns and cities. When it hears a case appealed, it can only sit in Edinburgh.

People in the High Court

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Judges

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Judges in the High Court are called *Lord Commissioners of Justiciary*. There are 36 judges in total. They are all also judges for the Court of Session.

The chief judge is called the *Lord Justice General*, and is also always the chief judge for the Court of Session, where he is called the *Lord President*. His deputy is called the *Lord Justice Clerk*.

When the High Court is the first court to hear a case, there will only be one judge. They will make any decisions involving the [law](#) in the case, and will make sure everything happens properly and fairly.

When the High Courts hears a case on appeal, there will be three judges. They will examine the conduct of the case and decide whether to overrule it or not.

Jury

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When the High Court is the first court to hear a case, it will sit with a *jury*. This is called a *trial*.

The jury is a group of 15 randomly chosen people, who aren't qualified in law. They decide the facts of a case, and decide whether the person accused of a crime is guilty or not.

They can reach three conclusions, called *verdicts*:

- Guilty - this means they are sure that the accused committed the crime the prosecution said they have
- Not guilty - this means they are not sure
- Not proven - this also means they are not sure

They can reach a verdict with a simple majority, 8/15, or more.

Parties

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There are two groups of people in the court, called *parties*.

Defence (the accused)

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The *accused* is the party that is in court because they have been [charged](#) with a crime. This means that a government body, normally the police, think they have committed a crime.

The accused never has to prove its case, but it can defend itself in court. To do this, they have to hire a lawyer called a [solicitor](#). The solicitor will help prepare their defence, but normally is not allowed to speak in the High Court - instead, the solicitor has to instruct a specialist lawyer called an [advocate](#), who is trained to represent people in court.

The accused and their lawyers are often referred together as the **defence**.

Prosecution (the Crown)

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The *prosecution* is the party that has to prove the guilt of the accused beyond a reasonable doubt. This means that they have to persuade the jury that the accused definitely committed a crime enough that they are certain.

The prosecution represents the people of Scotland, and in particular the [King](#). Because of this, they are sometimes called the **Crown**. The official prosecutor for Scotland is called the [Lord Advocate](#), but they will only attend court in really important cases. Most of the time, one of their deputies, called an [Advocate depute](#), will attend instead. They are also a lawyer, normally an advocate, just like the accused's lawyer.

It is possible in theory for a private citizen to prosecute someone, but this is very rare.

Proceedings in the High Court

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How trials work

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A High Court case starts at the point of charging, which is where the police officially accuses someone of a crime, after consulting the local prosecutor (called a [Procurator fiscal](#)). They will then spend time investigating, in order to prepare an *indictment*.

Indictment

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The prosecution will prepare an official list of all the crimes they believe the accused has committed, in very specific detail. This is called an indictment. The process of presenting an indictment is called *libel* or *libelling*.

First diet

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This is the first hearing of the case, and the first chance for someone to plead guilty or not guilty. It may be held in the High Court itself or in a Sheriff Court - its main purpose is to arrange a trial date.

Intermediate diet

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This is the main hearing before the trial begins. The accused can change their plea here, and the parties will raise any important issues before the trial.

Trial

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The trial is where a jury will decide the guilt of the accused.

It will begin by *swearing in* the jury, which is where they promise to act properly and fairly. The judge will then introduce the accused, as well as any key witnesses, so that any jurors that have a personal connection to anyone involved can be excused.

After that, the judge will give the jury a number of directions about how they must listen to evidence and decide the case.

Unlike some other legal systems, there are no opening speeches given by the parties. Instead, after all this has happened, they will begin hearing evidence. The prosecution will present their evidence first, and the defence (if they choose to) will present theirs afterwards.

Once all the evidence is heard, the parties will make closing speeches to summarise their arguments. The judge will then sum up the evidence and make any directions to the jury about it. They will then ask the jury to retire to a private room, where they will decide their verdict.

Once they have decided, the jury foreman will present the jury's verdict to the court. The jury never has to justify its verdict. This marks the end of the trial.

How sentences work

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Sentencing Committals

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Sometimes, a Sheriff Court might ask the High Court to sentence someone for them. This is because Sheriff Courts can only sentence someone to 5 years in prison, but their cases sometimes need more than that. When this happens, it is called a *sentencing committal*.

References

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1. ↑ "[About the High Court of Justiciary](#)". *www.scotcourts.gov.uk*. Archived from [the original](#) on 2023-11-23. Retrieved 2023-10-05.
2. ↑ "[C](#)". *scts_judiciary*. Retrieved 2023-10-05.

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