

Mode of Trial Factsheet

What is the difference between the Magistrates' Court and the Crown Court?

Almost all criminal cases start in a Magistrates' Court, and more than 90% will be completed there. In the Magistrates' Court, cases are either heard by a District Judge (who is a qualified lawyer) sitting alone, or by three Magistrates (who are volunteers from the community) sitting together - sometimes known as 'the bench'. Magistrates sit without juries and will listen to evidence provided by the prosecution and the defence, along with any recommendations from the probation service before reaching a decision about what the sentence should be.

More serious offences are passed to the Crown Court, either for sentencing after a defendant has been found guilty in the Magistrates' Court, or for a full trial with a Judge and jury. Crown Court trials have juries made up of 12 members of the public who will decide if a defendant is guilty or not guilty. If a defendant is found guilty, or has admitted their guilt, a Judge will decide on the appropriate sentence, having considered a report from the Probation Service if this is relevant.

Do the Magistrates' Court and Crown Court have the same sentencing powers?

No, the sentencing powers of the two courts are different. In the Magistrates' Court, Magistrates can sentence offenders to a maximum of six months' imprisonment for a single offence and, in most cases, a maximum fine of £5,000. In the Crown Court, sentences can be anything up to, and including, life imprisonment and/or an unlimited fine.



Mode of Trial Factsheet

Why are some trials heard in the Magistrates' Court and others in the Crown Court?

There are three types of criminal offence and the venue for trial often depends on the type of offence.

- 1) Summary offences: these are less serious cases such as motoring offences, disorderly behaviour, TV licence payment evasion and minor assaults. They can only be dealt with in the Magistrates' Court.
- 2) Either-way offences: these are cases which can be heard in either the Magistrates' or Crown Court. Examples include theft, burglary and harassment. Magistrates make the initial decision about whether a case is sufficiently serious to be heard in the Crown Court, or if it can remain in the Magistrates' Court. If the Magistrates decide that it is suitable for trial in the Magistrates' Court, the defendant is given the opportunity to choose whether their trial should take place in the Crown Court or the Magistrates' Court (often known as the "right to elect trial"). This power to elect is provided under section 20 of the Magistrates' Courts Act 1980.
- 3) Indictable-only offences: these are the most serious cases, such as murder, rape and robbery. These cases can only be tried in the Crown Court but start with an appearance in the Magistrates' Court which makes the first decision about whether the defendant should be granted bail.

How is it decided where a trial will be heard?

A decision is only required in cases which are either-way offences. In such cases, the Magistrates must first decide whether an offence is more suitable for trial in the Magistrates' Court or the Crown Court. This is known as the allocation decision (sometimes called the "mode of trial" decision).

When deciding where cases should be heard, Magistrates must take account of the facts of the case and any legal complexities that might arise. They must also decide whether, if the defendant was to be convicted in the Magistrates' Court, their sentencing powers would properly reflect the seriousness of the case.