



Glossary of Legal Terminology

A

Abandonment - A procedure by which a party gives up civil proceedings or an appeal. *(Scotland)*

ABH - Where a person commits an assault against another, this is an offence called Assault Occasioning Actual Bodily Harm.

Abscond - when a person fails to present themselves before the court when required, such as when they have been released on bail and not returned to court.

Absolute Discharge - The court takes no further action against an offender, but the offence and the discharge will appear on his criminal record.

Absolvitor - The judgment pronounced when a court decides in favour of a party against whom an action has been raised. *(Scotland)*

Abuse of process – Abuse of process has been defined as something so unfair and wrong with the prosecution that the court should not allow a prosecutor to proceed with a case.

Access - A court order allowing a person to see a child. Such an order is now called contact. See Contact order.

Accountant of Court - An officer of court who formerly supervised the conduct of judicial factors and persons appointed as guardians of adults with incapacity. *(Scotland)*

Accessory - Someone who encourages or helps another person to commit a crime.

Accomplice - Someone who helps another person to commit a crime

Accused – A term to describe a person charged with committing a crime or offence.

Acquittal - At the end of a trial the court finds a suspect of an offence not guilty

Act and warrant - The interlocutor in sequestration proceedings which confirms the appointment of the trustee. *(Scotland)*

Action - Proceedings raised by a person in a civil court seeking enforcement of a legal right against another (the defender). *(Scotland)*

Acts of Adjournal Rules - Court procedure made by the High Court of Justiciary for proceedings in criminal courts. *(Scotland)*

Acts of Sederunt Rules - Passed by the Lords of Council and Session (the judges of the Court of Session) relating to civil procedure. *(Scotland)*

Ad factum praestandum - For the performance of a certain act. *(Scotland)*

Ad fundandam jurisdictionem - For the purpose of founding jurisdiction. *(Scotland)*

Ad hoc - Referring only to a particular case or to a specified set of circumstances. *(Scotland)*

Ad infinitum - Without limit. *(Scotland)*

Ad interim - In the meantime. For example, in an action for an interdict, an order may be made ad interim before a final or perpetual order is made. **(Scotland)**

Adjournment – A break in court proceedings, perhaps for lunch, overnight or to a new date. **(Scotland)**

Adjust - To alter the written pleadings of an action or its defence in its early stages. **(Scotland)**

Administration order - A court order appointing an administrator for a company in financial difficulties. **(Scotland)**

Admonition - Where a person has pleaded guilty or been convicted of an offence, in some circumstances the court may admonish the offender not to do it again and impose no other penalty. **(Scotland)**

Advising - The occasion when a judgment of the High Court of Justiciary or the Court of Session is delivered. **(Scotland)**

Advocate - A member of the Scottish Bar. **(Scotland)**

Advocate depute - A person appointed by the Lord Advocate to prosecute in the High Court of Justiciary. **(Scotland)**

Advocate General - A UK Government Minister and the UK Government's chief Scottish legal adviser. **(Scotland)**

Affidavit – A signed statement made on oath. Sometimes this can be used in court as evidence of what the witness says, without the witness having to come to court.

Affirmation – A declaration or promise to tell the truth in court that does not involve taking a religious oath.

Allegation - Something that someone says has happened against the accused.

Amnesty - Usually used in reference to weapons when police ask people to hand in illegal weapons in the knowledge they will not be charged or prosecuted

Answers - A statement setting out the factual and legal response of a party to proceedings raised against him or her. **(Scotland)**

Appearance - The formal act whereby the defender in an action intimates his intention to defend.

Appropriate Adult - An independent adult who may attend police interviews and procedures when a victim, witness, suspect or accused is a person who has a mental disorder. The role of the Appropriate Adult is to facilitate communication between all parties.

Appeal Court - The higher court to which cases are sent when either the defence or prosecution (if it is an appeal about the sentence) wish to challenge the result from a Magistrates or Crown Court case

Arrest - Someone suspected of an offence is lawfully detained by a constable.

Anti-Social Behaviour order (ASBO) – are civil orders to protect the public from behaviour that causes or is likely to cause harassment, alarm or distress. An order contains conditions prohibiting an individual from carrying out specific anti-social acts or from entering certain areas.

Attendance Centre Order - A court order which requires an offender (under 21) to undertake a structured programme of activities

Attorney General - Government Minister responsible for prosecutions and the Crown Prosecution Service

B

Bail Remand - A suspect who has been arrested or charged with an offence is released by the police or court on condition that they report back at a certain date and time. Sometimes the suspect has to keep to certain conditions, such as living in a particular place, or not going near witnesses.

Bill of Advocation - The original function was to remove a criminal case from an inferior court to a superior court on account of partiality or incapacity of the judge or intricacy of the case. It is now also a means of review for errors by an inferior judge during a criminal case up to sentence. It is available to either the prosecutor or the accused; and

now extends to criminal trials in solemn proceedings in the High Court but only on the application of the prosecutor. It is the means by which a prosecutor seeks to have the High Court review an error in a court of summary jurisdiction. **(Scotland)**

Bill of suspension - This is an application by the person affected to the High Court of Justiciary from a court of summary jurisdiction (a sheriff sitting alone, a stipendiary magistrate or a Justice of the Peace Court) seeking to review and set aside an illegal or improper warrant, conviction or decision. Such an application by a prosecutor is by bill of advocation. Where it is sought to appeal against conviction on a question of fact or law the usual method of appeal is by application to the court of summary jurisdiction for a stated case. **(Scotland)**

Bond of caution - Where the court appoints a party or other person to find caution (a sum of money as security), this may be done by depositing cash, or by arranging a bond with an insurance company. It ensures that money is available in the event that the security is required. Note 'Caution' is pronounced to rhyme with station. **(Scotland)**

Books of Adjournal - The books or records of the Justiciary Office in relation to criminal proceedings. **(Scotland)**

Books of Sederunt - Records of the Acts of Sederunt in the Court of Session. **(Scotland)**

Breach - A breach may be a failure to perform a contract (breaking its terms), failure to do one's duty (breach of duty, or breach of trust), causing a disturbance, threatening, or other violent acts which break public tranquillity (breach of peace), illegally entering property (breach of close), not telling the truth-knowingly or innocently-about title to property (breach of warranty), or, in past times, refusal to honour a promise to marry (breach of promise). 2) v. the act of failing to perform one's agreement, breaking one's word, or otherwise actively violating one's duty to other.

By order - A hearing of a case put out for the hearing at the instance of the court and not on the motion of a party. **(Scotland)**

C

Calling list - The list of cases calling in the Court of Session on a particular day.

Caveat "Warning" - A legal document lodged in court by a party so that no order or ruling affecting him or her passes in his or her absence or without receiving prior notice and an opportunity to be heard by the court before any order is made. **(Scotland)**

Caution - Official warning given to offenders who admit to their guilt. Only available for low level offences. Community Penalties non-custodial options, community punishment, Community sentences, alternatives to prison Sentences of the court which deal with the offender in the community rather than in prison. They include community punishment, community rehabilitation orders and drug treatment and testing orders.

Charge – The crime that the accused person is thought to have committed.

Circuit Court - The court held by the judges of the High Court of Justiciary when they sit outside Edinburgh. **(Scotland)**

Committal for sentence - Happens when magistrates have found someone guilty of a crime but they think their sentencing powers are not enough. The magistrates transfer the case to the Crown Court where a higher sentence can be imposed.

Community payback order - An order, as an alternative to a custodial sentence, requiring an offender convicted of an offence punishable by imprisonment to perform unpaid work for the community, to be supervised, to pay compensation, or to undertake various kinds of treatment. It replaces community service orders, probation and supervised attendance orders. **(Scotland)**

Community Punishment and Rehabilitation Order - Between 40-100 hours of unpaid work for the community, alongside a programme of work designed to deal with the offending behaviour and personal improvement supervised by the Probation Service

Community Punishment Order - A sentence of the court which involves the offender doing up to 240 hours of unpaid work for the benefit of the community under the supervision of the Probation Service

Community Rehabilitation Order - An offender is supervised by a probation officer for a period of between 6 months and 3 years. May also include attending an Offending Behaviour Programme to tackle the reasons why the crime was committed.

Community safety units CSU - Local community safety units were set up to tackle crime and the fear of crime under the 1998 Crime and Disorder Act. They bring together police, local authority and other agencies to work together on specific problems such as hate crime and domestic violence.

Community service order - An order, as an alternative to a custodial sentence, requiring an offender convicted of an offence punishable by imprisonment to perform a specified number of hours of unpaid work in the community. **(Scotland)**

Compearance - The appearance of a defender or respondent in civil proceedings. **(Scotland)**

Compensation - Money paid by the offender to compensate the victim for the physical or psychological damage caused by the offence.

Compensation Order - A court order requiring the offender to pay compensation to the victim.

Complaint - A document starting summary (minor) criminal proceedings in a sheriff court, before a stipendiary magistrate or a Justice of the Peace Court setting out the crime or offence charged. **(Scotland)**

Conclusion - The statement of the precise order sought in a civil action in the Court of Session. **(Scotland)**

Condescendence - A written statement in an action setting out the factual and legal grounds of action of the pursuer in a civil action. **(Scotland)**

Conditional Discharge - No further action is taken against an offender unless they commit a further offence within a given period (no more than 3 years).

Confiscation - A court order made in criminal proceedings, after conviction or absolute discharge, where money or other property is taken from the offender because he or she benefited by it from criminal conduct. **(Scotland)**

Conviction - When an offender has pleaded or been found guilty of an offence in a court he or she is said to have been convicted. The conviction then appears on the offender's criminal record.

Counsel - A member of the Faculty of Advocates practising at the Scottish Bar. An advocate has the right to appear before any court in Scotland or the UK Supreme Court. **(Scotland)**

Court familiarisation visit – A visit arranged in advance of a trial to help witnesses become more familiar with the courtroom.

Court of Criminal Appeal - The High Court of Justiciary when sitting to hear appeals in solemn proceedings (cases heard on indictment before a jury) is sometimes called the Court of Criminal Appeal. **(Scotland)**

Court of Session - The supreme civil court. The judges of the Court of Session are also the judges of the High Court of Justiciary, the supreme criminal court. **(Scotland)**

Court of summary jurisdiction - This is a court sitting without a jury hearing summary criminal proceedings on summary complaint. The courts are the sheriff court when hearing criminal proceedings on summary complaint, a stipendiary magistrate or a Justice of the Peace Court. **(Scotland)**

CPS – This is the Crown Prosecution Service and they are the prosecuting authority for most offences in England and Wales.

Criminal appeal - An application to the High Court of Justiciary sitting as an appellate court to set aside the decision of a court that heard a case at first instance. A criminal appeal from a court of summary criminal jurisdiction is formally called a justiciary appeal. See also Court of Criminal Appeal and Justiciary Appeal Court. **(Scotland)**

Criminal Cases Review Commission - Public body responsible for investigating alleged miscarriages of justice. Cross-examination A witness in a court case is questioned about their evidence by the solicitor or barrister representing the opposing side, so a prosecution witness is cross-examined by the defendant's lawyer, and a defence witness by the prosecution lawyer.

Criminal responsibility - When someone reaches the age when the law says they are able to commit a criminal offence they have reached the age of criminal responsibility.

Cross-examination – Being questioned by the other lawyers after questioning by the person who has asked the witness to come to court.

Crown Court - The Crown Court is the second tier in the English court system. A judge hears the cases, and trials are heard by a jury. The Crown Court deals with crime which is too serious to be heard by the magistrates' court, and cases referred by the magistrates for sentence where their powers are not adequate.

Crown Prosecution Service CPS - The public prosecution service. The Crown Prosecution Service decides whether there is enough evidence to take a case to court, and whether it would be in the public interest. After the decision to prosecute has been taken the CPS employs the lawyers who represent the prosecution at court.

Curfew Order Tagging - The Court can order an offender to be at home between certain hours. This is usually monitored using an electronic tag attached to the offender's ankle.

Custody - When a person is remanded in custody it means that they will be detained in a prison until a later date when a trial or sentencing hearing will take place. The majority of prisoners on remand have not been convicted of a criminal offence and are awaiting trial following a not guilty plea.

Custodial sentences – A prison sentence, a bird, jail - Sentences where the offender is locked up in a prison, young offender institution or secure training centre.

D

Damages - The name for money awarded by a court as compensation.

Decern - A formal word meaning to give (final) decree or judgment and authorises an extract of the decree or order. *(Scotland)*

Declarator - An order declaring that some right exists or does not exist which has legal consequence. *(Scotland)*

Defendant - Person accused of a crime in court

Deferred sentence – A form of sentence in which the final decision about any punishment is deferred or put off to another date, usually some three to 12 months later. Where sentence is put off for a few weeks for further information, such as social enquiry reports, this is not a deferred sentence, but is properly called an "adjourned diet".

Detention and Training Order (DTO) - The mechanism by which a youth court sentences children aged 12 to 17 years to custody.

Diminished responsibility - A defence sometimes used for someone charged with murder, that they suffered lowered powers of reasoning and judgement because of their unusual state of mind. If their defence succeeds they will be convicted of manslaughter.

Diplomatic immunity - Immunity given to certain members of foreign embassies, such as ambassadors, for crimes they may have committed.

Discharge Absolute or Conditional discharge - The offender is found guilty of the offence, and the conviction appears on his or her criminal record, but either no further action is taken at all (absolute discharge, or no further action is taken as long as the offender does not offend again in a certain period of time (conditional discharge).

District Judge - A legally qualified professional judge who sits in the Magistrate's court.

DNA - Deoxyribonucleic acid, molecules contained in all living matter containing unique identification information. Everyone's DNA is slightly different, and so DNA found in body cells at crime scenes is increasingly being used as evidence in court.

Drug Treatment and Testing Order DTTO - A sentence for drug users who receive treatment for their drug use and have to give regular urine tests to make sure they are not using drugs.

Due Process - The guidelines set by which criminal cases must be followed in order to ensure a fair trial.

E

Electronic monitoring/Tagging - An offender or person on bail, on a curfew order or Home Detention Curfew at the end of a prison sentence, has an electronic tag which alerts staff in a control centre if they leave the house during certain parts of the day when they are supposed to be home.

Evidence – What a witness says in court. Also items such as documents, photographs or clothes. At a criminal trial or a proof in a civil proceedings, witnesses take the oath or affirm to tell the truth and given oral evidence in court in answer to questions. Sometimes written evidence (affidavit evidence) is allowed.

Evidence in chief - This is the evidence first given by a witness on behalf of a party to proceedings, e.g. the prosecutor, accused (defence), pursuer or defender. Questions asked of a witness by the other party are referred to as cross-examination. **(Scotland)**

Execution - The procedure for enforcing an order of the court.

Expenses - The costs of the proceedings that the court may order a successful party to recover from an unsuccessful party to proceedings. **(Scotland)**

Extended sentence – A sentence consisting of a custodial element (imprisonment or detention in a young offender's institution) and a period of supervision in the community on release.

Extradition - The handing over of a criminal to the country the crime was committed in.

Extra Division - A Division of the Inner House of the Court of Session other than the First or Second Division. **(Scotland)**

Extrajudicial settlement - This refers to an agreement between the parties to settle the case without the court having to decide the case. **(Scotland)**

F

Fine - A sentence of the court which involves the offender paying money to the court as a punishment. If the fine is too big to be paid immediately the offender can usually pay it in weekly or monthly instalments over a period of months up to a year.

First diet - A date on which an indictment calls in the sheriff court in solemn proceedings to determine whether the prosecutor and defence are ready to do to trial. **(Scotland)**

First Division - The Division of the Inner House of the Court of Session presided over by the Lord President. **(Scotland)**

First hearing - The first time a case calls in court. **(Scotland)**

Forensic evidence – Scientific evidence collected from a victim, a crime scene and others, such as fingerprints and DNA.

Full committal – The second appearance in court for an accused who was remanded in custody at a committal for further examination. It takes place in private. The accused will be granted bail or remanded in custody until the trial.

G

Guardian - A person appointed by a parent or a court to act as the legal representative of the child in the event of the parent's death, or a person appointed by a court to act as guardian in relation to the property, financial affairs or personal welfare of a person with incapacity. **(Scotland)**

Guilty – A verdict that means it has been proved beyond reasonable doubt that the accused committed the crime or part of the crime. The judge then considers any sentence or punishment.

H

Hate crime - A crime committed because of the hatred by the offender of some characteristic of the victim - usually their race, religion, physical or learning disability, gender or sexual orientation.

Hearing – Any part of a trial that takes place in a court.

Hearsay evidence - Evidence given in court of something said to the witness by another person.

Her Majesty's Advocate - The senior Law Officer responsible for the prosecution of crime and investigation of deaths and the principal legal adviser to the Scottish Government. Referred to as "Her Majesty's Advocate" in criminal matters and the "Lord Advocate" in civil matters. **(Scotland)**

Her Majesty's Inspectorate of Prisons HMIP - Established in 1980 to inspect prisons working independently of the prison service and reporting directly to the Home Secretary.

Heroin Smack, skag, junk, H, brown - A highly addictive opiate usually taken by smoking, injecting or snorting through the nose.

High Court of Justiciary - Usually referred to as "the High Court". Consists of two appellate courts (the Court of Criminal Appeal and the Justiciary Appeal Court) and a court of first instance (i.e. a court trying persons on indictment with a jury). The judges of the High Court are formally called Lords Commissioners of Justiciary. The judges of the court are also the judges of the Court of Session. **(Scotland)**

Home Detention Curfew HDC, Tagging - A prisoner serving a sentence of between 8 months and 4 years can be released from prison up to 90 days early under strict curfew arrangements and wearing an electronic tag.

Home Office - Government department responsible for all national issues such as crime and immigration.

Hostile witness - A witness who refuses to testify in support of the people who called them or testifies in a way which differs from their previous statement.

I

Indictable offence - Serious offence triable only in the Crown Court. A document setting out the charge(s) of crimes or offences against an accused in more serious cases. It runs in the name of Her Majesty's Advocate (the public prosecutor). A case on indictment is tried by judge sitting with a jury in the High Court (in the most serious cases), or the sheriff court. Cases tried on indictment are known as solemn proceedings.

Inner House - The appellate division of the Court of Session (one of the Supreme Courts of Scotland). Originally so called on the historical and topographical ground that their courts lay further from the entrance to the court house than did the Outer House. **(Scotland)**

Instance - The part of a summons, writ, or other document initiating proceedings in court in which the parties to the proceedings are identified and designed. **(Scotland)**

Intensive Supervision and Surveillance Programme ISSP - The most rigorous non-custodial intervention for persistent young offenders combining community-based surveillance with up to 25 hours of contact time per week.

Interlocutor - A formal order made by a court containing its decision. **(Scotland)**

Intermediate diet - A hearing in summary criminal proceedings which allows the court to check whether the case is likely to proceed on the date assigned for trial. A purpose is to minimise inconvenience to witnesses etc. if the trial is adjourned. **(Scotland)**

Interdict - A judicial prohibition or court order preventing someone from doing something. In an emergency, interim interdict can be obtained in the absence of the person against whom the order is sought (i.e ex parte). **(Scotland)**

Interim - In the meantime. A temporary court order made until a final order is made. **(Scotland)**

Interrogatories - Written questions adjusted by the court, to be put to witnesses examined under a commission to take that witness's evidence instead of the witness coming to court. **(Scotland)**

Inventory of process - A list of the documents in a court process. **(Scotland)**

J

Judge - The person who presides over the higher criminal courts - the Crown Court and Court of Appeal. Judges are trained lawyers who have been appointed after a career as a barrister or solicitor.

Judgment - The decision of a court setting out its reasons for the decision. In the High Court of Justiciary and the Court of Session it is called an "Opinion". In the Sheriff Court it is called a "Note" attached to the interlocutor.

Judicial review - A remedy whereby the Court of Session may review and if necessary set aside or rectify the decision of public officials or bodies where no other form of appeal is available.

Jurisdiction - The power of a court to entertain particular cases as determined by factors such as location or district, or the value or type of the case, or the residence or domicile of a person.

Jury – The group of men and women who listen to the evidence and make decisions about the facts in a case. In criminal cases, there are 15 jurors, with 12 in civil cases.

Justice of the peace – A lay magistrate who sits in the justice of the peace court.

Justiciary Appeal Court - The High Court of Justiciary, sitting as an appellate court hearing appeals from trials heard in summary cases (cases heard on summary complaint). **(Scotland)**

Justifying bail - Proving to the court that the person giving the surety has the assets to pay the bail.

Juvenile Offender - A person aged between 10 and 17 who has committed a criminal offence.

L

Lawyer - A general term used to describe barristers (who usually work in the Crown Court and Appeal Court) and solicitors.

Legislation - A general term for the Acts of Parliament which make up the laws of the land.

License – Being on licence means that a person still serving a prison sentence, can live in the community instead of being in prison. Whilst on licence, there are conditions that have to be followed.

Life sentence - A sentence of imprisonment for life. A minimum period in custody will be set by the court before the prisoner will be considered for release on licence. A life prisoner, if released, will be on licence and subject to recall to prison for the rest of his or her life.

Local Authority Secure Children's Home (LASCH) - Used to house children aged 12 to 14 and 'vulnerable' boys aged 15 and 16. Usually small in size with 5 to 38 beds.

Local prison - A prison used for prisoners on remand and newly sentenced. Local prisons tend to be near to the courts and are often situated in towns and cities. Once they have been sentenced most prisoners are moved to training prisons to serve their sentences.

Lord Advocate - The senior Law Officer responsible for the prosecution of crime and investigation of deaths in Scotland, and the principal legal adviser to the Scottish Government. Referred to as "Her Majesty's Advocate" in criminal matters and the "Lord Advocate" in civil matters. **(Scotland)**

Lord Commissioner of Justiciary - The formal title of a judge of the High Court of Justiciary. The judges of the High Court of Justiciary are also the judges of the Court of Session. **(Scotland)**

Lord Justice Clerk - The second senior judge in Scotland. He or she presides over the Second Division of the Court of Session. **(Scotland)**

Lord Justice General of Scotland - The most senior criminal judge, president of the High Court of Justiciary. The position is, in modern times, held by the Lord President of the Court of Session. **(Scotland)**

Lord of Council and Session - The formal title of a judge sitting as a judge in the Court of Session. The judges of the Court of Session are also the judges of the High Court of Justiciary. **(Scotland)**

Lord Ordinary - The title of a judge sitting in the Outer House of the Court of Session hearing a case at first instance. **(Scotland)**

Lord President of the Court of Session - The most senior civil judge, president of the Court of Session and the head of the judiciary. Also holds the position of Lord Justice General. **(Scotland)**

M

Mace - An ornamental staff of authority borne by a macer before a judge of the Court of Session or High Court of Justiciary and displayed in his or her court while it is sitting. **(Scotland)**

Mandatory - A person within the jurisdiction ordered by the court to be responsible for the conduct of a cause on behalf of a party who is not resident in Scotland. **(Scotland)**

Magistrate - Someone who sits as part of a group of three and acts as a judge in the Magistrates court. Magistrates in England and Wales are volunteers who have been specially trained for the task and are unpaid apart from their expenses.

Magistrates Court - The Magistrates Court deals with most motoring offences and less serious crime. The judges in Magistrates Court are either a group of three lay (volunteer) magistrates or a District Judge who is a professional. The Magistrates court has limits on its sentencing powers but can send cases to the Crown Court for sentence if necessary.

Mens rea - The intent to commit a crime and also the knowledge that an act is wrong. (This term is Latin.)

Minor - Someone who has not yet reached the age when they get full legal rights and responsibilities. In the UK this is a person under 18 years old.

Miscarriage of Justice - A conviction shown to be unsafe due to new evidence in the case or evidence of an unfair trial or violation of rights of the accused.

Mistrial - A trial that has been made invalid.

Mitigation - Putting facts to a judge, after someone has been found guilty, to justify a lower sentence.

Motion - An application made in court for an order during the course of court proceedings. **(Scotland)**

N

Next of kin - The person(s) nearest in degree to another person; e.g., the nearest ascendant or descendant of a deceased person.

Non-harassment order - An order of court prohibiting a person from conduct specified in the order in relation to another person for a specified period of time or an indefinite period.

Not proven - A verdict or decision of acquittal of an accused person.

Notifiable offence - Offence deemed serious enough to be recorded by the Police. Includes most indictable and triable-either-way offences.

Notification requirements - A person convicted of certain sexual offences must be made subject to the notification requirements of the Sexual Offences Act 2003 by which he or she must keep the police informed of address and any change of name for a specified period of time. Sometimes referred to as the "Sex Offenders' Register".

Not guilty/not proven – Verdicts that mean there was not enough evidence to prove the case beyond reasonable doubt, or there were other special reasons for not finding the accused guilty. Both verdicts mean the accused will be free to leave the court and cannot be tried again for the same offence.

Notional diet - An informal reference to a diet of trial or proof in criminal proceedings at which it is not expected that evidence will be led. **(Scotland)**

O

Oath – A religious promise to tell the truth in court. Oath In court proceedings the sworn undertaking by a witness to give truthful evidence.

Obligation - A legal duty to do something

Offender - Someone who has been convicted of a crime.

Offending Behaviour Programme OBP - A programme of work undertaken with an offender which is designed to tackle the reasons or behaviour which leads to his or her offending. These programmes often involve work with groups of offenders, but some are one-to one. Many of them are based on cognitive behavioural therapy and they are accredited by a national accreditation board. Offending behaviour programmes currently available in prison and through the probation service include the Enhanced Thinking Skills programme (ETS), the Sex Offender Treatment Programme and The Drink Impaired Drivers Programme.

Open Prison - Prison with minimum security requirements for those offenders who are deemed not to pose a threat to the general public.

Opinion - A statement by a court or judge of reasons for the decision in a case. In the Sheriff Court it is called a "Note" and is attached to the interlocutor containing the decision. **(Scotland)**

Options hearing - A hearing in an ordinary action in the sheriff court to decide the next stage in the case. That could be a continuation of the hearing for up to a month to adjust the pleadings, the fixing of a debate on the law or a proof of the facts. **(Scotland)**

Order for lifelong restriction (OLR) - A person convicted of a serious violent or sexual offence for which the maximum sentence could be life imprisonment where there is a likelihood that if at liberty he or she will seriously endanger the lives or well-being of a member of the public may be placed on such an order. The order consists of a sentence of imprisonment or detention for an indeterminate period. The offender will be subject to a lifelong risk management plan. **(Scotland)**

Ordinary cause - All sheriff court civil actions other than small claims, summary causes and summary applications, are ordinary actions subject to the Ordinary Cause Rules 1993 in the First Schedule to the Sheriff Courts (Scotland) Act 1907. A claim for £5,000 or more must be by an ordinary action. **(Scotland)**

Ordinary, Lord - The judge who hears cases at first instance in the Court of Session. **(Scotland)**

Outer House - The part of the Court of Session which exercises a first instance jurisdiction. The supreme civil court, the Court of Session is divided into the Inner House (which deals mainly with appeals) and the Outer House. The Judges in the Outer House deal with cases at first instance, that is cases started in the Court of Session, and also with some appeals from some tribunals. **(Scotland)**

P

Panel (Sometimes "Pannel") - The formal name for an accused person. The word "defendant" is not used. **(Scotland)**

Parole - Where an offender is serving a sentence of imprisonment or detention of four years or more (other than a life sentence), he or she is eligible to be released after one half of the sentence on parole. He or she may be subject to conditions for release and may be recalled to prison.

Parole evidence - Oral evidence of witnesses, as distinct from with documentary evidence including affidavit evidence.

Perjury - The crime committed by a witness in court proceedings by lying on oath or on an affirmation.

Perverting the course of justice – This is an offence. It is used to describe a situation where an individual interferes with the investigation of a possible crime. The maximum sentence for this offence is life imprisonment.

Petition – In criminal cases, a petition sets out the charges against the accused and starts the formal court process. It is also a document used to begin certain types of civil court cases.

Plea – The answer the accused gives to the court at the beginning of a trial when asked if he or she is guilty or not guilty.

Pleading diet - Date assigned for a criminal case to call and for plea to be given, e.g., guilty or not guilty. **(Scotland)**

Plea-in-law - A short proposition at the end of a written case showing exactly the legal remedy sought. **(Scotland)**

Police bail – Someone arrested by the police can be released if they sign a document called an undertaking, which means they promise to come to court at a later date and agree to certain conditions, such as not committing any other crimes.

Post-mortem examination – Examination of a body to establish the cause of death.

Precedent - The decision of a court regarded as a source of law or authority in the decision of a later case.

Precognition - A formal statement of a witness taken or written by another person. **(Scotland)**

Precognosce - To take a precognition. **(Scotland)**

Preliminary hearing - A hearing in the High Court of Justiciary in solemn proceedings to decide if the case is ready to go for trial. Also preliminary legal or factual issues may be determined before trial at a preliminary hearing. **(Scotland)**

Preliminary plea - A plea-in-law that raises a legal issue that does not relate to the merits of the proceedings but if sustained could result in the proceedings or a part of them being dismissed. **(Scotland)**

Pre-Sentence Report - This is a report by a Probation Officer that is prepared after a defendant pleads guilty or is found guilty. It analyses the defendant and his background and personal circumstances, the motivation for the offence, and makes recommendation for sentencing.

President, Lord - The head of the judiciary. He or she presides over the First Division of the Inner House of the Court of Session, the supreme civil court. As Lord Justice General of Scotland he or she is the senior judge of the High Court of Justiciary. **(Scotland)**

Private prosecution – This is a prosecution started by a private individual who is not acting on behalf of the police or any other prosecuting authority or body which conducts prosecutions.

Probation Community Rehabilitation Order - Although people still talk of offenders 'getting probation' the Probation Order was replaced by the Community Rehabilitation Order (CRO) under the 1998 Crime and Disorder Act. The CRO involves (as probation used to) a period of supervision by a probation officer. During the CRO the offender may have to attend an Offending Behaviour Programme and must attend appointments. Sometimes other

requirement are also added. If the offender does not comply then s/he is returned to court for breach of the order and can be sentenced for the breach (with the order allowed to continue) or re-sentenced for the offence.

Pro-bono - This is where lawyers perform work for free.

Process - The court papers relating to a cause. **(Scotland)**

Procurator fiscal - Literally, the procurator for the fiscal or treasury, now the style and title of the public prosecutor in the sheriff court. **(Scotland)**

Production - An article produced and lodged as evidence in court. **(Scotland)**

Proof – Either evidence of something or a formal hearing of evidence in a civil case of children's hearing court. In addition to its general meaning, this word has the formal sense of a hearing of a case by a judge at which evidence is led orally or by affidavit.

Proof before answer - Where evidence is heard on the facts before questions of law are determined, there may be a "proof before answer".

Prorogate - Continue or extend. Where further time is allowed to do something required by the court before the time limit has expired, the time limit is prorogated. **(Scotland)**

Prosecution - A case brought against a person; the lawyer(s) responsible for putting forward the case against a defendant.

Prosecutor - The person who brings legal proceedings, on behalf of the Crown, against the accused.

Public guardian - The official responsible for supervising powers and orders in relation to adults with incapacity under the Adults with Incapacity (Scotland) Act 2000. **(Scotland)**

Punishment part - Where a sentence of life imprisonment is imposed the period before which the offender may be considered for release on licence. **(Scotland)**

Pursuer - The person suing in a civil action seeking an order against a defender. **(Scotland)**

Q

Queen's Counsel, or QC – A rank conferred by the Crown on distinguished advocates and solicitors with rights of audience in the highest courts.

Queen's evidence - Evidence for the prosecution given by someone who is also accused of the crime being tried.

Quoad ultra - As regards everything else. In pleadings, after the averments for the other party have been admitted or dealt with as not known and not admitted, the rest of those pleadings are dealt with. This is usually done by the statement "Quoad ultra, denied." There then follows an explanation as to why the rest of the other party's pleadings are denied. **(Scotland)**

R

Recovery of documents - Where documents are sought to be used to prove a case and are in the possession of another party in the case or some person who is not a party, they may be sought to be recovered by that other person on application to the court. The person who is said to be in possession of the document is called a "haver". A motion for recovery of documents must be accompanied by a document called a specification of documents which sets out the documents or categories of documents sought to be recovered. **(Scotland)**

Re-offend, Recidivism - When an offender commits a new crime after being convicted of a previous offence
Reasonable doubt The standard of proof in criminal courts in the UK is that the case is proved 'beyond reasonable doubt'.

Recidivism, Re-offending - Reoffending by people who have previous convictions. The rate of recidivism is the rate of reoffending - for example the rate of recidivism for prisoners is 58%.

Reduction - To annul or set aside a decision or document by legal process. **(Scotland)**

Rehabilitation - Work to enable offenders to put crime behind them. This often involves tackling the specific reasons for the offending (e.g. drug use, lack of understanding of victims feelings) as well as dealing with other factors which are known to help people lead crime free lives - education (basic skills), housing, employment, parenting skills.

Release on temporary licence – A prisoner may be released from prison before the end of their prison sentence on a temporary license.

Remand in custody, remanded - A defendant is imprisoned while awaiting trial.

Remit - The transfer of some matter by one judge to another judge or court; or to a person named as, e.g. to an expert "a man of skill", in order that the latter may inquire and report. **(Scotland)**

Repeat offender - A person who continues to commit the same offence.

Repel - A court does not overrule a plea or an objection, it repels it. The opposite is to sustain (or uphold). **(Scotland)**

Repone - To repone a defender is to restore him to his position as a litigant when decree in absence has been given against him. Also competent in, e.g. case of failure to lodge documents in appeal to Court of Session. **(Scotland)**

Resettlement - The reintegration of a prisoner after release from custody.

Resident sheriff - A sheriff who holds a commission to sit as a full-time or permanent sheriff at a particular sheriff court. **(Scotland)**

Resisting arrest - A person trying to prevent the police arresting him or her. A charge could be made of obstructing a police officer in the course of duty.

Respondent - (1) A person who enters the process of a petition to oppose it. (2) The person against whom an appeal to a higher court from a lower court is made. **(Scotland)**

Restitution - An order for the return of stolen goods to the victim of the theft or for compensation to be paid to the victim; or a writ, following a successful appeal, for the return of the items lost after the original case.

Restorative justice - An approach which seeks to put right the harm caused by the offence. This may involve a meeting between the offender and victim, with a mediator, where the victim can tell the offender how the offence has affected them, and the offender can try to put things right.

Restraining order - An order which a court may issue to prevent a person from doing a particular thing. For example, if someone has been harassing another person, the court may order that the harassment must stop.

Restriction of liberty order (ROLO) - An order imposed as an alternative to imprisonment restricting an offender's movements whereby he or she is to remain in or is excluded from a specified place for specified periods of time. **(Scotland)**

Restriction order - This order by the Crown Court prevents a person being discharged from hospital, to protect the public.

Retainer - A payment to a barrister to act in a case.

Review - Revision by a higher court on appeal. **(Scotland)**

Riot - A gathering of 12 or more people using, or threatening to use, violence to achieve a common end.

Robbery - Using or threatening to use force while carrying out a theft.

Rolls - Official lists of cases as set down for hearing, depending on the type of case or the stage of the proceedings. For example, the Motion Roll, Single Bills, Summar Roll, Options hearing. **(Scotland)**

Scottish statutory instrument (S.S.I.) - The form in which subordinate legislation, that is orders, rules and regulations etc. under an Act of Parliament are made by the Scottish Parliament. **(Scotland)**

Search warrant - A warrant issued by a magistrate, or High Court judge, to allow police officers to search premises.

Second Division - One of the Divisions of the Inner House of the Court of Session presided over by the Lord Justice Clerk. **(Scotland)**

Section 90/91 - Section 90 and 91 of the Powers of Criminal Courts (Sentencing) Act (2000) gives the Crown Court power to sentence children aged 10 to 17 years to prison for serious offences (for which an adult would receive a sentence of 14 years or more).

Section 76 indictment/letter - An accused person charged with a serious offence may give notice in writing that he intends to plead guilty to an indictment under section 76 of the Criminal Procedure (Scotland) Act 1995. **(Scotland)**

Secure Training Centre - A secure institution for 12-14 year olds. Children in this age group are not sent to prison, but can go to an STC. This is usually for serious offences or when the young person is a persistent offender.

Self-defence – If a defendant was or may have been acting in lawful self-defence of himself or lawful defence of another, he is not guilty.

Senator of the College of Justice - Judges of the Court of Session and the High Court of Justiciary, the supreme courts of Scotland, are appointed by HM Queen as senators of the College of Justice created in 1532. **(Scotland)**

Sentence – The judge's decision on what should happen when an accused is found guilty of breaking the law.

Sentence discount – When the judge reduces the length of sentence because the accused has pleaded guilty.

Sex Offenders' Register - The Sexual Offences Act 2003 does not use this expression, though it is used commonly. The Act refers to notification requirements for offenders convicted of certain sexual offences.

Sheriff - The judge who presides in the sheriff court. There are 49 sheriff court houses. **(Scotland)**

Sheriff officer - An officer of the sheriff court responsible for serving documents and executing orders if the sheriff court. **(Scotland)**

Signet - A summons in the Court of Session, the writ by which an action is raised in that court as distinct from a petition, must have the signet or seal of the Sovereign bearing the Royal Coat of Arms embossed upon it to authorise execution that is service of the writ on a defender. The Keeper of the Signet is the Lord Clerk Register who on 3rd May 1976 granted a commission to the Principal Clerk of Session (and clerks authorised by him) to signet summonses which was formerly done by members of the Society of Writers to HM Signet. **(Scotland)**

Single Bills - A Roll for motions and some civil reclaiming motions or appeals in the Inner House of the Court of Session. **(Scotland)**

Solemn proceedings - Serious criminal offences are prosecuted on indictment before a judge and jury of 15 persons. These proceedings are called "solemn proceedings" as distinct from summary proceedings before a sheriff or justice(s) of the peace sitting without a jury. **(Scotland)**

Specification of documents - Where documents are sought to be used to prove a case and are in the possession of another party in the case or some person who is not a party, they may be sought to be recovered by that other person on application to the court. A motion for recovery of documents must be accompanied by a document called a specification of documents which sets out the particular documents or categories of documents sought to be recovered. **(Scotland)**

Spent conviction - A conviction which, after the passage of a stated time period, does not have to be disclosed (revealed) to a court.

Starred motion - A motion in the Court of Session for which appearance is required by or for a party to the proceedings. **(Scotland)**

Stated Case - (1) Where an appeal is made against a decision to convict or not to convict a person on summary complaint, the judge must prepare a stated case which sets out the facts and questions for the Justiciary Appeal Court. This is a formal document. If the offender wishes to appeal against sentence only (i.e. the severity) the appeal is by note of appeal. (2) Where a party appeals to a sheriff principal against a decision in a summary cause or a small claim, which may only be on a point of law, the sheriff must prepare a stated case. **(Scotland)**

Statement - A description of the events of a crime, or relating to a crime, given to the police during investigation.

Statute - An Act of Parliament.

Statutory instrument (S.I.) - The form in which subordinate legislation that is orders, rules and regulations etc. made under a UK Act of Parliament are made superseding, since 1947, statutory rules and orders (S.R.& O.). **(Scotland)**

Stipendary magistrate - A legally qualified judge who hears criminal cases in summary proceedings on summary complaint. **(Scotland)**

Subordinate legislation - This is an order, rule, regulation, etc., made under an Act of Parliament. **(Scotland)**

Summar Roll - A roll in the Inner House of the Court of Session for the hearing of reclaiming motions and civil appeals. **(Scotland)**

Summary application - This is form of application in the sheriff court for a variety of statutory applications, including certain kinds of statutory appeal to the sheriff as distinct from an initial writ, small claim or summary cause. **(Scotland)**

Summary complaint - Less serious criminal offences are prosecuted on summary complaint before a court of summary jurisdiction, that is a sheriff sitting alone, a stipendary magistrate or in a Justice of the Peace Court. More serious cases are prosecuted on indictment under solemn proceedings that is before a jury. **(Scotland)**

Summary decree - A final decision on part or all of a defence to an action or defence to a counterclaim on the basis that the defence does not in fact disclose a defence. **(Scotland)**

Summary offence - Offence considered to be less serious, and triable only in the Magistrates Court

Summons - The form of writ initiating an action in the Court of Session. It is issued in name of the sovereign, containing a royal mandate to messengers-at-arms to cite the defender to the court.

Supervised attendance order (SAO) - A sentence instead of a fine on an offender convicted of an offence of not more than 100 hours supervision by a social worker. **(Scotland)**

Supervised release order - An order on an offender convicted on indictment of an offence other than a sexual offence who is sentenced to imprisonment or detention for less than four years where it is necessary to protect the public from serious harm from the offender on his release. **(Scotland)**

Supreme Court - The highest court below the House of Lords. The full name is the Supreme Court of Judicature. It is divided into, the Crown Court, the High Court of Justice and the Court of Appeal.

Suspect - A person being investigated in relation to a particular offence or offences.

T

Tagging Electronic Monitoring - An offender or person on bail, on a curfew order or Home Detention Curfew at the end of a prison sentence, has an electronic tag which alerts staff in a control centre if they leave the house during certain parts of the day when they are supposed to be home

Theft - Taking someone else's property dishonestly, with the intention of never returning it.

Threatening behaviour - Using threats, abuse or insults against another person.

TICs – Offences taken into consideration. Where an offender pleads to an offence or a number of offences, they may ask for similar offences to be ‘taken into consideration’.

Training prison - A prison to which convicted prisoners are sent to serve their sentences. Training courses and education are usually made available to prisoners there long enough to benefit.

Trial diet - The day on which a trial on indictment or on summary complaint in criminal proceedings at which evidence is to be led will be heard. **(Scotland)**

U

Unduly lenient sentence – A sentence which the Attorney General considers to be unduly lenient is one which is referred to the Court of Appeal for a reconsideration.

Unlawful wounding - Wounding someone without the justification of self-defence or without power given by the law.

V

Verdict - The verdict in a criminal trial is the point at which the Magistrates (in a Magistrates Court) or the jury (in a Crown Court) say whether they have found the defendant guilty or not guilty.

Vexatious litigant - A person who takes proceedings primarily for the annoyance or embarrassment of the defender and whose activities in raising actions may be restrained by the Court of Session. **(Scotland)**

Victimisation - Being a victim. This term is usually used to describe the risk of being a victim of crime if someone belongs to a particular group (women, children, ethnic minorities, inhabitants of a particular area, etc.) or in connection with repeat victimisation, where someone who has already been a victim is victimised again.

Victim statement – A written statement that allows victims or, in some cases, their relatives to tell the court how the crime affected them.

Violent disorder - Three or more people in a gathering using or threatening to use unlawful violence.

Visitors' centre - A place, usually outside a prison, where people who have come to visit relatives or friends in prison can obtain information and help, buy refreshments and wait for their visits. Not all prisons have visitors' centres.

Voluntary manslaughter - Murder and voluntary manslaughter have the same meaning in law. But there are four defences that can reduce the crime in seriousness to manslaughter, provocation, diminished responsibility, infanticide and suicide.

W

Ward of court - A person who is protected by the High Court, such as a minor.

Warrant – A document from the court that allows the police to take certain actions, such as arresting someone or searching premises.

White collar crime - This term is usually used to describe crimes committed by professional people, often in relation to business or financial affairs. Examples include corrupt share transactions, tax evasion and fraud.

Without prejudice - When written on a document, the document cannot be used as evidence that a contract or agreement exists.

Witness Service – People at the court who provide support and advice to witnesses and their families.

Y

Young Offender Institution YOI - A prison for young people between the ages of 15 (16 for girls) and 21. Young offenders have to be kept separately from adults, and juveniles (under 18s) separate from 18-21s.

You're Honour - The proper form of address in court of a stipendiary magistrate or justice of the peace.

Youth Justice Board - An executive non-departmental public body responsible for overseeing the Youth Justice System.

Youth Offending Team (YOT) - There is a YOT in every local authority in England and Wales. They are made up of representatives from the police, Probation Service, social services, health, education, drugs and alcohol misuse and housing officers. The YOT is responsible for co-ordinating the work of youth justice services.

Z

Zero tolerance - Crime fighting strategy developed in New York in the 1990s where all crimes, however minor, and anti-social behaviour is dealt with rigorously in order to combat a supposed culture of crime.