

Scottish Courts
and Tribunals Service



Jury Service in the Court of Session



SCOTTISH COURTS AND TRIBUNALS SERVICE

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Introduction

You are one of a group of people who have been called for possible jury service. This booklet explains what this means, and what you can expect to happen.

It includes:

- information on arrangements for coming to court
- what happens at the courthouse when you arrive
- what happens if you are chosen to serve on a jury trying a civil case
- how to make claims for loss of earnings or benefit, or necessary expenses incurred on jury service
- how you will receive payment
- a glossary of terms on page 11 in case you are not familiar with some of the words used in court

Jury service is an interesting and important public duty. If, however, you have any difficulty with the extra travelling to and from court or with rearranging your domestic timetables, you can telephone the Civil Juror Officer or talk to the clerk of court when you arrive at the courthouse.

Contacting the court

If you wish to speak to a court official before your jury service begins, please call the telephone number for the Civil Juror Officer (the official responsible for handling jury enquiries in civil cases). It is on your juror's citation and is at the back of this booklet.

**YOU MUST BRING YOUR CITATION WITH YOU
TO COURT**

Preparing for jury service

Please read this section and the following section, 'At court'. The contents page may also help you find answers to your questions. Read carefully your juror's citation and the accompanying leaflets.

Later, if you are selected as a juror, please read the rest of this booklet.

If you need to contact the Civil Juror Officer, please do so as soon as possible to avoid difficulty later. The telephone number and address of the court are given at the back of the booklet. When writing or calling, please state your juror citation number and date of attendance.

If you have hearing or sight impairments or have mobility or other accessibility or support requirements, please contact the staff



at the courthouse on receipt of your citation to discuss what arrangements can be made for you. Courtrooms generally are sound-enhanced and some have the **Baker Sound Induction Loop (SIL) OR Phonic Ear System** fitted for the benefit of those with hearing difficulties. The courthouse also has

disabled access for those with mobility impairment. If you feel that an illness or disability means you could not follow the evidence, then you should inform the Civil Juror Officer **before you attend the court** by completing the application for exemption or excusal from jury service. You may have to provide a medical certificate. If your doctor considers your condition is long term or unlikely to change, please ask your doctor to include this information in your medical certificate. Medical certificates which are requested from GPs for the purpose of jury service are exempt from payment. This is in terms of The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018. You should therefore tell the GP surgery of the purpose of the certificate and if you have any difficulty in getting the certificate free of charge you should refer the surgery to the above regulations.

Jurors' update line

On the Monday evening before attending court, it is important that you telephone the update line: Freephone 0800 731 9060. An unforeseen event may affect the start time of the court, and last-minute arrangements may be needed for new jurors. So, to avoid unnecessary attendance or a long wait for a delayed trial to start, **please telephone the jurors' update line.**

How to get to the courthouse

Details of how to get to the courthouse by train or bus are given at the back of the booklet.

Car parking

There are no car-parking facilities for jurors. Most of the surrounding streets are 'yellow lined'. If you must travel by car, for example if you are disabled, you should contact the court now. If you choose to travel by car, you must make your own parking arrangements. Please allow enough time to do so, as you will need to reach the courtroom on time. Parking charges cannot be reclaimed.

What you should wear

There are no set rules about what to wear. Your clothing should be comfortable but smart, to reflect the importance of the role you are to play in court.

Smoking

Smoking is not permitted in court or the jury room. Separate facilities **may** be available for smokers. Please ask court officials what provision is available for smokers. **Please note** that jurors should not chew gum while the court is sitting.



The length of your jury service

Attendance as a juror is unlikely to last more than a week, but the exact length of a jury trial is hard to estimate – it depends on a number of factors, many of them outwith the court’s control. For example, a trial with a large number of witnesses will generally take longer than a trial with only a few.

The jurors are chosen by ballot. During the talk to jurors, the clerk of court may give an estimate of the length of the trial for which the ballot is about to take place. However, if a trial is expected to last several weeks, the court officials will try to warn jurors by enclosing a letter with the citation for jury service. If you have any pre-existing holiday commitments which make it difficult for you to serve as a juror in such a trial, please contact the court immediately.

Prospective jurors who are not chosen to sit on a jury will be discharged by the judge shortly after the ballot has taken place.

The court usually sits from around 10am until 4pm. Occasionally it may have to sit later. You will be able to go home each evening. Lunch is provided for the jury and is taken between 1pm and 2pm. Normally, you will not be permitted to leave the courthouse during the lunch break, but if you wish to make an urgent telephone call, then please speak to the court official looking after the jury.

You must ensure that you arrive in good time for the start of each court day. It is advisable to go to the toilet before the court starts, as the next court break may be at lunchtime. Some courts may have a mid-morning comfort break, but if you need to visit the toilet during the day, you should attract the attention of a court official. The court will then take a short break.

If you are a first-time juror you may find the atmosphere on the first day tense, emotionally charged and possibly stressful, but you will soon settle in to the new environment and get used to procedures.

Security

Please look after your personal belongings carefully. Keep your handbag etc. with you at all times.

If you feel uncomfortable at any stage, for any reason – please inform the clerk of court, any court official or a security officer immediately.

At court

What happens when you arrive?

When you arrive at the Court of Session, which is in Parliament Square, just behind St. Giles Cathedral (see map), please enter by Door 11 and report to the reception desk. You will be directed to the courtroom in which the trial is to take place. Some time will be spent checking that all the jurors are present.

The clerk of court will give a brief talk to the jurors about what will happen if they are selected for jury service. During the talk, the clerk of court will tell you the names of the parties in the case and ask you if you know any of them. If you do, you should tell the clerk of court. This would also be a good time to speak to the clerk about any other matter which may cause you concern.

If you do not attend court, and have not already been excused, you may be fined.

Waiting for the court to start

Often parties in the case settle their dispute at the last minute. It is then no longer necessary to select a jury. This may cause inconvenience to potential witnesses, jurors etc, but there is nothing the court can do about it. If the dispute is not settled, then, if all witnesses are present, the case should be ready to start. There may be some last-minute matters to be checked before the parties are ready. We would ask you to be tolerant of any necessary delay.

The selection of the jury

Once it is known that the case is to proceed, a jury is chosen from those who have come for jury service. The clerk of court will place slips of paper containing the names of all the potential jurors in a glass bowl. The clerk will then draw 12 names at random and call out each name. If your name is called, you should come forward and take your seat in the jury box.

During the selection of the jury, each party in the case may object to four of the names without giving a reason, and may object to further names if a proper reason is given. Objections may be made for many reasons; for instance, to keep a balance between male and female jurors, or to ensure that various age groups are represented. You should not be worried or offended if your name is objected to. You should remain seated or, if you have already entered the jury box, return to your original seat in court.

If you are not chosen, you will be released from jury service and told how to claim expenses. However, you should not leave the courtroom until told by the judge that you may do so.

Swearing the oath

If you are selected to serve on the jury, the clerk of court will give you a written statement describing what issues the jury must decide. The clerk will ask whether you have any interest to declare. If you think you may have personal knowledge of the case, for example, if you know one of the parties or if you work for the same employer, you should tell the clerk of court immediately. It will then be for the judge to decide whether, in the circumstances, you can serve as a juror.

The clerk of court then administers the oath to the jury. If you wish to affirm instead of swearing the oath, you can do so, but it would be helpful if you mention this to the clerk of court in advance.

The trial

What kind of case will be tried?

You and your fellow jury members are being asked to try a civil case. Civil cases are quite different from criminal cases. In civil cases, the court is asked to settle a dispute between two or more parties as to their respective legal rights and duties. The party who raises the action is known as the pursuer. The person against whom the action is brought is called the defender. There are many types of civil action. A typical example is where a pursuer seeks damages from a defender for injuries sustained in an accident. The pursuer will try to establish that the accident, and therefore his or her loss due to the injuries, was caused by the fault or negligence of the defender. If the pursuer succeeds, he or she may be entitled to receive damages (compensation) from the defender.

The role of the judge

The judge is in charge of all proceedings in the courtroom and is responsible for advising you on all matters of law which affect the case.

When a matter of law has to be decided, it will normally be done by the judge alone. Where a point of law is to be argued, the judge may direct the jury to leave the courtroom for a short time while this is taking place.

The role of the juror

Listen to all the evidence given. You can take notes if you wish – writing materials are provided for each juror. Do not make your mind up after hearing only part of the evidence, as you may be unable to give proper consideration to evidence which is yet to be heard. Once all the evidence has been given in the case, you should then listen to the speeches from those representing the pursuer and the defender.

After that, you will have to consider what the judge says in his or her address and any direction in law which the judge gives to the jury. The jury will then leave the court to consider its verdict. You should participate in discussions about the verdict with fellow jury members in the jury room. You may wish to refer to notes you have taken during the trial. At the end of the jury discussions, cast your vote for the appropriate verdict.

Secrecy

Once the trial has begun, you must not discuss the case with anyone except fellow jurors and then only in the privacy of the jury room. No juror should have any contact with any of the parties to the action. It is an offence for anyone to try to obtain information from a juror about any of the matters discussed by the jury, even long after the trial has ended.

The role of the jury

The role of the jury is to decide the issues which are put to it, having heard and considered the facts according to the evidence.

It is extremely important that each member of the jury pays careful attention to all the evidence, since the verdict must be based on the evidence **and nothing else**.

Once the trial has started, if you become unwell overnight, or over a weekend, and cannot return to court, you should contact the court as quickly as possible.

How the trial will proceed

Counsel (Queen's Counsel/advocate) or a solicitor advocate - senior lawyers representing the pursuer - will make an opening speech outlining the pursuer's case. At the end of this speech, the pursuer's evidence is heard. Evidence may be either:

1. what witnesses say in the witness box; or
2. certain documents or exhibits (known as productions) which the judge may admit as evidence.

When the evidence for the pursuer has been heard, counsel for the defender will normally make an opening speech and then call witnesses and refer to productions as above.

First of all, witnesses are examined (i.e. questioned) on oath by the counsel for the party calling them; then cross-examined by counsel for the other party or parties; finally they may be re-examined by the first counsel. On occasion, the judge may ask questions to clear up any doubts or ambiguities which have arisen in the evidence. Each witness is examined in turn. All of the parties to the action are entitled to lead evidence.

After all the evidence has been heard, it is likely that each counsel will make a closing speech to the jury, emphasising the points of the evidence which they wish jurors particularly to note.

Directions from the judge

After the closing speeches, it is the duty of the presiding judge to 'charge' or address the jury. The charge gives the judge the opportunity of reviewing the evidence and of giving the jury other information to help them reach their decision. The judge leaves the ultimate decision on the facts entirely to the jury. He or she does, however, lay down the particular principles of law which apply to the case and what verdicts are open to them to return. The judge gives instructions about reaching unanimous or majority verdicts. He or she also asks the jurors to choose one juror as the spokesperson.

Retiring to the jury room

Once the judge has completed his or her address to the jury, they go to the jury room to consider their verdict. Jurors may take into the room any notes they have made, together with any papers and any productions they have been given. The first matter the jury may wish to decide is which juror will be in charge of their discussions and who will speak for them when they return to the courtroom and give their verdict.

Advice on procedure

If the jury wants advice on any procedural point, the person to contact is the clerk of court.

Returning the verdict

When the jury is ready to return their verdict, they will let the clerk of court know. Arrangements will be made for them to return to the courtroom. The clerk of court will then put questions to the jury spokesperson. Questions in a straightforward case are likely to be:

- **Has the jury agreed upon a verdict?**

Answer: Yes/No

- **How do you answer the issue?**

Answer: Yes/No

if “Yes”

- **At what sum do you assess damages under head one of the issue?**

Answer: £XXX

- **At what sum do you assess damages under head two?**

... and so on.

if “No” the clerk of court will record a negative verdict.

The clerk of court will read back the verdict to the jury to confirm that it has been recorded accurately. **If any member of the jury disagrees with what the spokesperson of the jury is telling the clerk of court, they should say so immediately.**

When the verdict has been recorded by the clerk of court and agreed by the jury spokesperson, the work of the jury is over.

Warning: It is an offence to pass on any information about statements made, opinions given, arguments put forward or votes cast by any member of the jury during their discussions, even long after the trial has ended. If you do so, you may be fined or sent to prison.

Glossary of terms

An issue	: <i>is a concise statement of the question of fact to be answered by the jury</i>
Production	: <i>an article or exhibit produced as evidence in court</i>
To affirm	: <i>to make a solemn declaration without an oath</i>
Verdict	: <i>the decision of the jury</i>

Payment of expenses

What you can claim

You are not paid for jury service, but you can claim:

- loss of earnings or benefit - any sums paid will be subject to a maximum daily amount
- payment for someone else to do your job - these sums will be repaid subject to a maximum daily amount
- travelling expenses and any other expenses incurred in respect of jury service.

Method of payment

Having completed the claim form on the back of the citation, you should return it by post - an envelope will be provided.

Payment will be made by cheque sent to your home address within 7-10 working days of your claim.

If you have any difficulty with these arrangements, (for example, if you do not have a bank account which could receive a payable order), then you should speak confidentially to the clerk of court at the earliest opportunity.

Childminding expenses

You will be reimbursed only if you employ a baby-sitter or childminder as a result of your jury service. In all cases, you must send with your claim form a certificate (which you can get from the clerk of court) completed by the baby-sitter or childminder.

It should state their name and address and their hourly rate. If the childminder is registered by a local council which registers by number, the childminder's registration number is required.

The self-employed

If you are self-employed, you should also complete the top part of the form on the back of the citation giving clear details of your self-employed status and the name and address of your business. Proof of earnings may be required before claims can be paid (for example, a photocopy of a current HM Revenue and Customs certificate, accountant's letter or operator's permit).

Loss of benefits

If you are claiming benefit, you should mention your jury service to your Department for Work and Pensions office. They should be able to tell you how much you should claim from the court for loss of benefit.

With this booklet is a guide to completing your claim form. If you have any questions about this, you should speak to the clerk of court. If required, the cashier or administration unit will help you complete your claim.

Data Protection

The SCTS processes personal data about jurors in the form of age (including date of birth), address and contact details. If a person asks to be excused, they may be asked to provide supporting information (e.g. a letter from an employer detailing work patterns or a travel booking confirming holiday plans). A summary of this information is noted against the excusal. Evidence of the grounds for excusal is retained for a period of approximately 8 weeks after the date of countermand or the date of commencement of the trial. After 8 weeks it is securely destroyed. It is possible that if a specific issue has arisen in relation to a particular juror in the course of a court case, the issue will be recorded in the case papers, for example if a juror was taken ill, was alleged to have acted inappropriately during the trial or made a complaint. Processing of juror information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the General Data Protection Regulation. Further information on how the SCTS processes personal data is detailed in the Privacy Statement on the SCTS website (www.scotcourts.gov.uk).

Thank you for your attendance

The judge, court officials and lawyers all recognise and appreciate that serving as a juror may cause you some personal inconvenience. Despite this, we hope that you find the experience instructive and rewarding.

Without your essential contribution, it would not be possible for the Scottish legal system to maintain the high standards which have been achieved over the years.

ADDRESS OF SUPREME COURTS

Supreme Courts of Scotland, Parliament House,

Parliament Square, Edinburgh EH1 1RQ

Telephone: 0131 225 2595

Fax: 0131 240 6711

CONTACTING THE SUPREME COURTS

To claim exemption or seek excusal from jury service; to advise of medical or other disability, or likely difficulty in following the evidence; to give holiday dates; to report inability to attend/return to court on account of illness.

The Court of Session: 0131 240 6772

CAR PARKING

There are no parking facilities for jurors within Parliament Square. The surrounding streets are ‘yellow lined’, or have only restricted parking. If you come by car, leave sufficient time to find an all-day parking place.

PUBLIC TRANSPORT

Parliament Square is well served by public transport. Waverley (ScotRail) station is within walking distance. Taxis are plentiful. Several bus routes pass the High Street or the Mound, including LRT buses: 23, 27, 35, 40, 41 and 42.

REFRESHMENTS

Light refreshments and meals are available in the public restaurant. Lunch will be provided for persons serving on juries.

