

## Pre-court: what to do before you go to court



We are often asked, by people who have not been to court before, "what will happen when I go to court?", "what do I call people?", "what should I wear?", "will I get banned?", "will I go to prison?", "will I have to re-take my test?".

We hope these brief notes will help. Don't be alarmed if it doesn't go completely to this plan though.

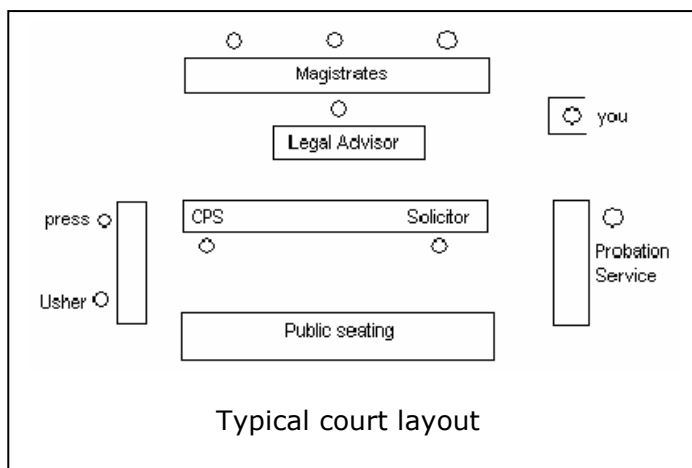
Arrive at the appointed hour - usually 9.45, dress fairly smart; to show your respect for the court, no jeans, but you don't need to borrow a tie/suit/skirt if you don't have one!

Seek out the Usher and report in. They usually wear a black gown, carry a clip-board/file and are very friendly and helpful. They will direct you to the duty solicitor if you think you might need one (usually free) and will give you information about the Dept for Transport's '**Drink Driver Rehabilitation**' courses. They may be able to indicate when your case might be heard; it could be any time up to the end of the day's business, few courts have an appointment system. Once you've booked in don't leave the court without checking with the Usher first, even to go and get a paper.

Tea and coffee are normally available from a machine (so take some change). It's worth taking something to read: it can be a long wait, and a friend for support! But try not to take someone who will be more anxious than you!

The press may, or may not, be in court, the best way to avoid publicity is to say little, be inconspicuous and hope a bigger story breaks on the day! If you want to be in the paper, ask them to not mention you! Just remember a court is a public place, anyone can attend.

When your case is called the Usher will show you into court and indicate where you should stand. The Legal Advisor, sitting below and in front of the Magistrates (usually 3 but sometimes only 2, or even one, if it's a District Judge or in Scotland, a Sheriff), will ask you to confirm your name, address and date of birth, and ask you to hand in your driving licence (it's a good idea to make a note of the number, you may need it later, also if you have changed your address (or other details) from that on the licence, update the '*your new particulars*' box). Take a photocopy of it and if you have time get an International Driving Permit before you go to court.



The Legal Advisor will then read the charge and ask how you plead? "*Guilty*" or "*Not Guilty*". If you plead "*Not Guilty*", then a further date will be set for a full hearing (though in this case you will no doubt have a Solicitor to advise you).

If you plead "*Guilty*" the Legal Advisor will invite you to sit while the Solicitor from the Crown Prosecution Service (CPS) reads the brief details of the circumstances of the offence (largely what the Police Officer wrote).

The Legal Advisor will ask you if you accept what was said. You should stand up when you answer and then sit again. (It is simplest to call everyone 'Sir' or 'Madam' or 'Your Worships' for all the Magistrates). The acoustics in courts are not normally very good, so SPEAK UP!

The Legal Advisor will inform the Magistrates of any previous matters (points on your licence etc.) and then invite you (or your solicitor) to address the Magistrates. **A ban is inevitable** for 'driving or attempting to drive' (though discretionary for being 'in charge') and the minimum is 12 months, even if it is a first offence on a clean licence, so whilst you may wish to express the difficulties this will cause, no amount of pleading will prevent it happening, though you may be able to influence for how long you are banned if it is to be more than 12 months.

| Breathalyser reading |         |         | Ban        | Maximum Reduction | Fine - £   |                |             |
|----------------------|---------|---------|------------|-------------------|--|----------------|-------------|
| Breath               | Blood   | Urine   | (months)   | (months)          | low income   | average income | high income |
| 35-55                | 80-125  | 107-170 | <b>12m</b> | 3m                | £180   | £450           | £1080       |
| 56-70                | 126-160 | 171-214 | <b>16m</b> | 4m                | £240   | £600           | £1440       |
| 71-85                | 161-195 | 215-260 | <b>20m</b> | 5m                | £300   | £750           | £1800       |
| 86-100               | 196-229 | 261-308 | <b>24m</b> | 6m                | Consider Community Penalty<br>(Community Service and/or Probation) |                |             |
| 101-115              | 230-264 | 309-354 | <b>28m</b> | 7m                |  |                |             |
| 116-130              | 265-300 | 355-400 | <b>32m</b> | 8m                | Consider Custody   |                |             |
| 131+                 | 301+    | 401+    | <b>36m</b> | 9m                |  |                |             |

If your reading was more than 2½ times the limit (88 in breath, 200 in blood or 268 in urine) or you refused to give a specimen or it is your second offence in ten years, then you are classed a 'High Risk Offender' and will require a medical before you can drive again.

If your reading was very high (3 times the limit or higher), it is your second offence in a short time (2/3 years), or your third drink-drive offence, or there are other offences in addition to drinking and driving, the Court may feel that they need to consider a more severe penalty i.e. a Community Punishment Order (CPO) or (rarely) custody.

They will then adjourn your case for 'Pre-Sentence Reports'. This may mean putting your case back for a couple of hours while a Probation Officer prepares a 'Specific Sentence Report (SSR)' or the Court may adjourn your case, usually for 3 weeks, for a full 'Pre-Sentence Report (PSR)'. The Probation Officer will speak to you in confidence and produce a report, usually a 'tick box' affair for a SSR or 2/3 sides of A4 for a PSR, giving a representation of who you are, your background, attitude to the offence, your drinking behaviour and other key issues which the court needs to know in order to sentence you, but do not wish to make public in open court. (Don't leave the court precincts until you have spoken to a member of the Probation Service).

**Prison** comes into view at 4 times the limit, but won't happen without a Pre-Sentence Report. You could be banned in the **interim** and if you are this will be allowed against any subsequent disqualification (up to a maximum of 6 months).

The fine will be influenced by your financial situation so it may be worth putting together beforehand a very brief note showing your income and outgoings (you may have done something similar at the police station). Make sure to include whether this situation will be affected by losing your job with your licence.

If you are uneasy about speaking in court, you can write your submission/mitigation and hand that to the Legal Advisor to read, or you can read it yourself. In our experience - less is more!

Testimonials are not really useful if you have pleaded guilty but evidence to reinforce your pleading may help, e.g. if you are likely to lose your job (or a proportion of your income) with your licence; a letter from your employer confirming that may help. The Legal Advisor (or the Magistrate(s)) may ask you specific questions to aid their understanding, though will mostly just listen attentively.

The Magistrates will then deliberate on your sentence. They may retire to do so or discuss your case briefly amongst themselves where they sit. They will then ask you to stand (or remain standing when they return from the retiring room) and will pass sentence - you may not drive from that point. If they retire and are out for a considerable time, don't panic, they are probably just having coffee!

You may then be asked if you would like to be considered for the Dept for Transport's **Drink Driver Rehabilitation Scheme** if you do not mention it yourself. You have to agree to a Referral Order being made **now**; at the time of sentence, you can't come back next week and say 'yes'. If you are not sure, say YES anyway, nothing nasty will happen if you never do a course.

You will also have to say which approved course organiser you wish to do your course with (in some Courts there are up to 4 to choose from). We are dde (**drink driver education**), a not-for-profit road safety organisation, limited by guarantee. We have been running Dept for Transport courses since 1998 and run courses throughout the Thames Valley, Surrey, Nth Hants and Middx. All venues are very near the station and easy to find.

It is very unusual to be ordered to re-take your test. Even if you come under the Road Traffic (New Drivers) Act you will **not** need to retake your test **unless specifically ordered** to do so at the time of sentence (the recent Road Safety Act requires drivers convicted of 24 months or more to be retested but it has not been implemented yet).

**Test Pass Certificate** - this must be exchanged for a full licence **within two years** of passing your test, otherwise you have to start the whole process again: provisional - theory - practical. So if your ban takes you over the 2 years send in your application (form D1 from the Post Office) early.

You will be asked how you intend to pay any fine (£200-£600) plus costs (£35-£70). By cheque or 'card' within 7 days is the norm, though you can ask for time to pay: if you suggest a reasonable monthly amount it is likely to be accepted. If you run into problems paying the fine contact the fines office quickly - they will be much more amenable if they don't have to chase you.

When we receive a copy of the Referral Order from Court we will contact you with information about courses.

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