



Not Guilty Client Guide

Initial Court Hearing

- 1 → Pleading Not Guilty
- 2 → Attending Court
- 3 → The Initial Hearing
- 4 → Bail & Court Orders

Preparing your defence

- 5 → Preparing the Defence
- 6 → Investigating the Crown Evidence
- 7 → The Intermediate Diet

The Trial

- 8 → The Trial Diet
- 9 → Acquittal Verdict
- 10 → Guilty Verdict & Deferred Sentences

THE INITIAL COURT HEARING

1. Pleading Not Guilty

Tendering a not guilty plea to the Court is the starting point of your case. By now you will have most likely received a citation from the Crown Office and Procurator Fiscal Service (COPFS) confirming the date of your pleading diet at which your plea must be confirmed.

Having instructed our specialist Road Traffic Lawyers, you can relax and let us take care of this for you. **Yes, that means that you don't need to fill in any paperwork or attend Court.**

Our specialist Road Traffic team will attend on your behalf and confirm that you have instructed us to plead **not guilty** to the allegation(s). In certain circumstances, particularly involving cases calling in Courts out-with Glasgow and Lanarkshire, we shall intimate your plea in writing (via e-mail or a secure next day delivery postal system).

In cases of a more serious nature such as Drink Driving you may have to attend personally. In these circumstances, you shall be met at Court by one of our experienced Road Traffic Lawyers. Details as to what happens at Court are detailed clearly in section 2 below.

Following your **not guilty plea** being recorded, the Court shall confirm two further dates namely - your **Intermediate Diet** and **Trial Diet**. We will send these dates to you in writing.

The nature and requirements of these hearings are discussed in section 7 & 8.

2. Attending Court

If you are required to attend Court for your initial hearing then please ensure that you arrive at least 15 minutes early. We would always advise that you dress appropriately (smart).



Please check in at reception. You will then be advised what courtroom your case has been allocated to. Thereafter, wait outside or have a seat in the public gallery. If you are attending a smaller Court with a single court room and no reception simply have a seat within the public gallery. The lawyer attending, will identify themselves to you and confirm your instructions prior to the calling of your case.

Please note that although the hearing itself is short - there may be a large volume of pleading diets and other procedural hearings calling before yours, as such you may be required to wait some time before your case calls. Please remain patient at this time.

3. The Initial Hearing

When your case calls, the Court Clerk will call your name in the open Court. At this point you must walk from the public gallery into the dock, stand and face the bench. He/she will then confirm your name and often your address too. After you have confirmed these personal details, please sit down and keep facing the bench. Your lawyer will at this stage confirm to the court that he/she is representing you and confirm your plea of **not guilty**.



1. Dock
2. Witness Box
3. Sheriff or JP
4. Defence
5. Procurator Fiscal
6. Jury seating

Once the Court have recorded your plea, they will confirm the dates of your **Intermediate Diet** and **Trial Diet** which we shall of course confirm to you in writing as explained. **You will be required to attend both these hearings as detailed in sections 7 and 8 respectively.**

In alcohol related cases it is important to note, that the Procurator Fiscal may make a request to the Court that your vehicle be seized pending the outcome of your case. We would advise that although the Court have the *power* to do so it is highly unlikely and indeed such an order has thankfully never been granted against any of our clients.

4. Bail & Court Orders

In addition to the above procedure at the initial hearing, the Court will require you to confirm your status throughout your case. In the majority of cases they will declare that you are to be “ordained” which simply means you need to attend Court on the dates set.

In more serious cases the Court may wish to serve you with a bail order. This is a document which sets out that the Court is granting you liberty, provided you adhere strictly to certain conditions (which may be similar to those listed below):

- That you attend court on the date and times requested.
- That you do not commit any criminal offence.
- That you do not interfere with witnesses.
- That you comply with the preparation of social work reports if requested.
- That you attend an identification parade.

It is important to note that **any breach of a bail order is a criminal offence** and will result in prosecution so please adhere to the conditions set out in the document you receive.

If there is anything you are unclear about at any stage do not hesitate to contact us.

We are here to help.

5. Preparing the Defence

This is the most important stage of your client journey. **During this part of the process, it is important that you make yourself available to meet with your lawyer as and when required. We have offices in Saltmarket Glasgow, West End Glasgow and in Hamilton.**

Our experienced Road Traffic Lawyers need your assistance in preparing a **robust defence**. Working together, we can confidently get you the best possible outcome.

Please provide us with any documentation that we request as quickly as possible. Your lawyer will inform you specifically what is required as it varies from case to case but as a basic (to allow us to fully understand the individual circumstances surrounding your individual case and to identify matters which may require further investigation) **we would ask that you kindly provide us with the following within 7 days of instruction:**

- In your own words, a detailed explanation of the circumstances of the case as best you can recall them.
- An explanation as to how the imposition of penalty points or a disqualification would affect you, your family, your job and your reputation etc
- Full names and contact details for any witnesses you feel may assist your case and a brief explanation of why you feel that these witnesses may be of assistance.
- A copy of any documentation which you feel may help your defence
- A copy of any photographs or video clips that you feel may help your defence.

Once our team have all of this information, they will begin to prepare your defence.

There is normally a vast amount of work to get through, so in terms of managing expectations, **it can take several weeks to months**. We will do our best to keep you updated on the progress being made, meanwhile do not hesitate to call us when required.

The type of work carried out will vary depending on the nature of your case, but an example of some of the work which may be undertaken is as follows:

- Conducting a locus visit.
- Contacting vehicle manufacturers, insurance companies, the Camera Safety Partnership etc
- Consulting and instructing expert toxicologist.
- Consulting and instructing an accident reconstruction expert.
- Taking statements from witnesses.
- Drafting and lodging court documents.



During the preparation of your defence and prior to your Intermediate Diet, we would expect to receive a copy of the evidence (that the COPFS have) against you.

It is at this stage, our Road Traffic Lawyers will arrange to meet with you, to go over this evidence in detail. By working together we can create a robust defence.

Our priority is to protect your driving licence.

6. Investigating the Crown Evidence

It is important that the aforementioned work is undertaken, to ensure your case is well prepared for your Trial Diet but **your defence is never fully prepared until you and your lawyer have considered the Crown evidence against you.**

Theoretically, this should be available prior to the Intermediate Diet but due to inefficiencies with the COPFS it is often the case that we do not receive this until after the Intermediate Diet and sometimes we don't even receive this by the time the Trial Diet comes around. **Please be assured, we will not proceed with a trial until we have been provided with all the evidence against you and are given appropriate time to complete the preparation of your defence.**



Once we have discussed your thoughts on the evidence against you your Road Traffic Lawyer will then tell you how this evidence could affect your case (whether that be in a positive or detrimental way). He/she will also advise whether you should continue to plead not guilty OR if it is in your best interests to change your plea to guilty. We will explore all the options available to you and ensure that you are happy before proceeding.



In addition to the Crown evidence that we receive, Police Scotland may serve documentation on you directly and it is imperative that **if you receive any documentation whatsoever contact us immediately** and provide us with copies.

Certain documents are time sensitive and require to be challenged instantly.

7. The Intermediate Diet

The Intermediate Diet is a Procedural Hearing *prior* to the Trial Diet.

The purpose of this hearing is simply for us to confirm whether you are maintaining your plea of not guilty or changing your plea to guilty. It is very informal.

If you are maintaining a not guilty plea, then the COPFS and the defence require to simply update the Court as to whether the parties are fully prepared for Trial and if not, to advise what matters are still outstanding.

If both parties are prepared, the Court will confirm the case has continued to Trial.

However, if any of the parties are not fully prepared, they can make a request for the Trial Diet to be *postponed* or at the very least to set another Intermediate Diet to ensure that outstanding issues will be rectified prior to the Trial.

At this stage, we will also lodge legal documentation with the Court including lists of witnesses and lists of evidential productions and copies of same.

Please note that with this being a procedural hearing the requirements placed upon you are the same as detailed in section 2. However, **if you change your plea to guilty at this stage, then the slight procedural difference is that instead of your lawyer confirming a not guilty plea to the court, he/she will confirm a guilty plea.**

It is as straightforward as that.

At which point the Sheriff/Justice of the peace will ask you to stand and confirm that you are pleading guilty. Thereafter, you sit down and after hearing a narration of the facts from the COPFS representative and a bespoke plea in mitigation from your lawyer, you will be asked to stand again and the court will confirm the sentence imposed.

8. The Trial Diet

The Trial Diet is a more formal hearing than the initial court hearing and Intermediate Diet. It is the Trial Diet which we will have been working so hard towards.

It is important to note, in addition to the guidance set out in section 2 that you dress smartly for this hearing and that you plan to be at court for the full day.

The Trial Diet is the hearing at which the evidence will be heard and a decision made by the Court as to whether you are deemed to be guilty, not guilty or indeed if the case has not been proven against you.

Unfortunately, your case will not be the only one set down for trial on that particular date. As such, the Court will call over all cases to check what ones are ready to proceed and those that are proceeding will be put into a running order.

Please be aware, cases that are older or of a more serious nature can take priority. You may have to wait a considerable amount of time for your case to be heard and on occasion, the Court may have to postpone your case (due to having too many to hear and not enough available court time). Please remain patient during this time. Thank you.

Once the Trial does proceed, the Court Clerk will call your case and confirm your identity as normal. The COPFS representative will then call their witnesses one at a time.

Each witness will be asked questions by the Crown depute followed by your lawyer and then again by the depute. Once all of the evidence has been heard from all Crown witnesses, the COPFS will close their case.

At this stage your specialist Road Traffic Lawyer will decide whether to make submissions to the Court, if they feel that there has been insufficient evidence against you. **The COPFS must prove the case against you!**



If any submissions made by your lawyer are successful - that brings the case to a successful conclusion.

If there is no basis for such a submission or if submissions are made but are not accepted by the Court, the defence can then lead evidence.

You are not required to give evidence in your case and you cannot be compelled to do so. However, if you chose to do so - you will be asked to enter the witness box where you will take the oath or affirm to tell the truth. You will then be questioned by your lawyer, then by the depute and again by your lawyer if necessary. Any other defence witnesses will then give evidence in the same fashion.

During the course of the Trial any other forms of evidence (such as documentation or photographs) will be utilised. After all defence evidence has been led, the defence case is closed.

The Court will then hear submissions from both the depute and your lawyer before making a decision and confirming the verdict.

Please note, that it is a fundamental principal of Scots Law that you are presumed to be **innocent until proven guilty** and the Court can only find you guilty if they are convinced of your guilty beyond all reasonable doubt.

9. Acquittal Verdict

In Scotland there are two verdicts of **acquittal**, **not guilty and not proven**, both of which have the same effect.



If you are **acquitted** - that brings your case to a close and no conviction will be recorded.

Therefore, if you are applying for a job or entering a foreign country there should **never** be a record that you were accused of any offence, as if it never happened.

Please feel free to leave us a good review.

10. Guilty Verdict & Deferred Sentences

If you are found guilty - a criminal conviction will be recorded.

This can show up on any Disclosure Scotland Certificate and may be available to authorities when you are entering foreign countries. To set your mind at ease, our experience is that most road traffic convictions rarely have any effect on you unless they are of a particularly serious nature. We are happy to discuss everything with you in detail.

After the Court confirms the guilty verdict the Sheriff/ Justice of the Peace will hear a bespoke plea in mitigation from your lawyer and will then confirm the sentence imposed.

In more serious cases, the Sheriff/Justice of the peace may call for social enquiry reports to ascertain more information about your background and consider all sentencing options. If reports are requested then you will be required to return to Court at a later date for sentencing. Please be aware that you may be disqualified from driving, (if appropriate) from the date of the Trial Diet with the length of any disqualification to be confirmed at the sentencing hearing.

Where a guilty verdict is reached in alcohol related offences, it is important to note that the COPFS may request the court to grant an order for seizure / forfeiture of your vehicle. **If granted this allows them to take possession of your vehicle and sell or destroy it.**

Although the court have the power to grant such an order we are confident this can be avoided and indeed we have never had a case where this type of order has been granted.



We hope this information has been helpful to you.
Any Q please do not hesitate to contact us.

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