

PROCEDURE AT TRIAL Part 2

Submission of no case to answer

At the end of the prosecution evidence, the defence may make a submission of no case to answer. A submission that there is no case to answer may properly be made and upheld:

- When there has been no evidence to prove an essential element in the alleged offence; or
- When the evidence adduced by the prosecution has been so discredited as a result of cross-examination or is so manifestly unreliable that no reasonable tribunal could safely convict on it.

The defence case

Assuming no submission of no case to answer is made, or is made and fails, the defence may present its case. The right of defence to make an opening speech is rarely exercised and the defence usually begins to call its evidence straight away.

Closing speeches

The defence has the right to either an opening or a closing speech, and invariably elects a closing speech, thus having the benefit of the last word. The prosecution does not have the right to a closing speech. However if either party wishes to make a second speech, they may do so with the leave of the court, but if the court is going to allow one party to make a second speech, it must allow the other party a second speech also. If both parties are allowed a second speech, the prosecution must go first, thus allowing the defence the benefit of the last word.

The verdict

Lay magistrates usually retire to consider their verdict, and no one must retire with them as this may create the impression that they have somehow influenced the decision. District judges rarely retire, and usually announce their decision immediately after the defence's closing speech.

Sentence

If the magistrates find the case proved, they will proceed to sentence, after an adjournment if necessary. The magistrates may sentence a person over the age of 21 to a maximum period of twelve months' imprisonment on each offence, or the statutory maximum, whichever is less.

Where the person is convicted of two or more offences, the sentences may be made to run consecutively to a maximum of 65 weeks. In addition to any period of imprisonment the magistrates may fine an offender up to £5,000 per offence.

Power to rectify mistakes

A magistrates' court may vary or rescind a sentence or other order imposed or made by it, if it appears to the court to be in the interests of justice to do so. The purpose of this provision is to prevent the judicial review of proceedings which clearly should be re-heard.

Committal to the Crown Court for sentence

In certain circumstances the magistrates, having found the defendant guilty of an offence or if the defendant pleads guilty, may commit the defendant to the Crown Court for sentence.

When a court finds someone guilty of a crime, the most common sentences are:

- A court fine
- A community sentence - e.g. a curfew, unpaid work or going on a drug treatment programme
- A prison sentence
- A suspended prison sentence

In a suspended prison sentence, the offender serves their sentence in the community, but if they commit another crime they will usually be sent to prison.

Match the terms with the definitions:

1. submission of no case to answer	A the approving of an action, especially when done by one in authority
2. adduced evidence	B delayed punishment
3. defence case	C claimed, stated crime
4. closing speech	D the right to correct, remedy
5. committal for sentence	E any regulation requiring people to be off the streets and in their homes by a certain time
6. alleged offence	F deliberate, think over the sentence
7. benefit of the last word	G a court's power of review of the decisions of lower courts or of the actions of other branches of government
8. to consider the verdict	H when a witness is examined by the opposing party in the suit before the court
9. to run consecutively	I what is put forward to defeat an action against the party in suit
10. suspended sentence	J handing over the case to higher court for a ruling of punishment
11. cross-examination	K presented testimony
12. power to rectify	L the defendant's submission that the opposing party has no evidence or lacks sufficient legal grounds to make a case
13. curfew	M advantage of concluding remarks
14. the leave of the court	N a statement that each lawyer makes at the end of a trial in which they explain why they believe their client should win
15 judicial review	O to proceed without interruption

II. Complete the sentences with the given terms:

submissions, review, statutory, consecutively, convicted, magistrate, guilty, committal, alleged, prosecution, defence, adduced, upheld, community, rescind

- No date has yet been set for the of applications.
- Any motion shall be properly formulated and
- None of the evidence in court was conclusive.
- It took 15 years for the criminals to prove their innocence.
- He has twice been of robbery.
- She said that a good lawyer would conduct her
- The has to establish his guilt beyond reasonable doubt.
- If he doesn't pay the fine soon, he'll be up before the
- Brown may be sentenced to 12 months' imprisonment or themaximum.
- The district judge may or change the sentence.
- In case of two or more offences, the sentence may run up to 65 weeks.
- Decisions made by public bodies may be subject to judicial
- Criminals whose crime was not serious are sometimes ordered to do service.
- The process of sending the defendant to the Crown Court for sentence is called
- A person accused of a crime is presumed innocent until proven

[online] Internet <http://www.inbrief.co.uk/court-proceedings/summary-trial-procedure/>; Cambridge Learner's Dictionary <https://dictionary.cambridge.org>, The Law Dictionary <http://thelawdictionary.org>, <http://thesaurus.yourdictionary.com> [dostep 20.10.2017]

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