

MARTIN & NIERADA

Information Sheet

This leaflet is provided to explain to you the procedures when you are charged with a criminal offence. Please retain for future reference.

THE FIRM

Martin & Nierada have a specialist criminal department and all of the people you will meet in the firm are very experienced in dealing with your type of case. Michael Strain the criminal law partner in our firm is a Law Graduate and has been qualified since 1992. He is also a qualified Solicitor Advocate with Rights of Audience in the Crown Court. He will act on your behalf throughout your case. Also part of the Criminal Defence Team is Gerallt Parry who attends Crown Court matters and at the Police Station. Mr. Parry is also a Law Graduate and has qualified as an Accredited Representative at the Police Station. We aim to offer all of our clients an efficient and effective service and I am confident that we will do so in your case. If at any time should Mr. Strain or Mr. Parry be unavailable please leave a message with their secretary Lola Roberts.

INFORMATION REQUIRED FROM YOU

To help us obtain the best result in court from you, you will have to work with us. From time to time we will require information from you and you must provide this quickly. We will also be asking you about your case when you make an appointment to come to the office. If possible, please prepare in writing as much details about you and your case for your first appointment. Please provide as much detail as possible as even small details may be relevant to the outcome of your case, and the manner in which your case is conducted. We will type out these details and it will become your "Proof of Evidence", your version of events upon which your case will be conducted.

WHAT HAPPENS AFTER YOU HAVE BEEN CHARGED

Bail/Custody

After you have been charged with a criminal offence you will either be given bail or kept in custody at the police station to appear before the next available Magistrates Court. Bail means that you are required to attend court on a set date, you will be held the date when in custody at the police station. If you do not attend court and do not have a good explanation there could be a warrant out for your arrest by the police and you will be kept in custody until the next available court date. You might then be charged with another offence, for example, **failing to answer bail**. Bail can be unconditional or with conditions. If conditions are attached you must stick to them or you will be arrested for **breach of bail** and kept in custody at the police station until the next available court date. Examples of bail conditions could be, not to approach a particular person or place, keep to a curfew. You can apply to the Magistrates Court to vary these bail conditions but only if you have a good reason to do so. You must tell us straight away of any variation to the conditions or you will not be able to attend Court. If you are denied bail you will remain in custody and be brought before the Magistrates court the next morning. Then we make a bail application on your behalf and for this we will need details about you, for example, where you live, how long you have lived there, family connections in the area, employment etc. We will also contain information about your previous criminal record and whether you have failed to answer bail before. We will ask the Magistrates to grant bail, if they agree you will be released until the next court hearing and if not you are entitled to ask again the following week and then ask a judge in the Crown Court. If the application fails you will be kept in custody until the case has finished.

TYPES OF OFFENCES

Offences fall into three categories:-

1. Offences which can be heard in either the Magistrates or the Crown Court (either-way offences).
2. Minor offences which can only be heard in the Magistrates Court (summary offences).
3. Serious offences which can only be heard in the Crown Court (indictable offences).

You will be informed of the type offence that you are charged with when you come to the office. If you are charged with an indictable offence you will normally only make one appearance before the Magistrates. Your case will be sent to the Crown Court and we will instruct a Barrister to represent you (we can advise as to the choice of Barrister but if you have a preference let us know). If you are pleading not guilty a jury will decide your case. If you plead guilty or are found guilty after a trial the Judge will sentence you. The Judge has greater sentencing powers than the Magistrate. If you plead guilty or are found guilty of a summary offence the maximum sentence the Magistrates can impose is six month imprisonment. The sentence you receive depends on a number of factors including the detail of your offence and your personal circumstances. Your case will be heard in the Magistrates Court more quickly than in the Crown court. If you are charged with an either way offence and you are pleading not guilty it then has to be decided where the case is heard. This can then say whether they think the case should be heard in the Crown or the Magistrates Court. The prosecutor will read out details of the case to the Magistrates. The prosecution will then say whether they think the case should be heard in the Crown or the Magistrates Court. If they say Crown Court and this is not what you want we can explain to the court why we think the case should stay in the Magistrates Court.

The Magistrates will make a decision. If the prosecutor says the Magistrates Court you can then have the choice as to the Magistrates or Crown. We will have advised you as to which choice is best for you before the hearing. The choice will depend on the offence and your personal circumstances. If you are pleading guilty to an either way offence normally the Magistrates will deal with your case. Occasionally they may send a case to the Crown Court for sentence if they feel their sentencing powers are insufficient.

LEA

Take advice from us prior to the Court hearing as to whether you should be pleading guilty or not guilty. If you plead guilty immediately to an offence the Magistrates have to give you credit for an early guilty plea. This will materially affect any sentence you receive. If you plead not guilty your case will be adjourned for trial. Before you can be found guilty of an offence that you are contesting the Magistrates or the jury have to decide beyond reasonable doubt that you are guilty of an offence. The procedure is that the Prosecution Service calls their evidence and you then have the opportunity to call your evidence. Sometimes you will be required to call witnesses i.e. if you are saying you have an alibi or if there is medical evidence. We will assist you by contacting these people and taking statements from them. It is very important that you give us full details about your case at the earliest possible opportunity. When your case is finished and you have been sentenced by the Magistrates or the Crown Court we will advise you as to whether the sentence is suitable. You may feel that you have been given an excessive sentence but bearing in mind our experience we will be able to assure you as to whether or not this is the case. If you wish to appeal against the Magistrates decision you can ask the Crown Court to review your case. Please take advice from us as to whether or not you should be appealing against your sentence. If you are convicted after a trial and you feel that this decision is wrong you may also appeal to the Crown court. This is effectively a re-hearing but you must be aware that if you are convicted again the Crown Court Judge could give a greater sentence than the Magistrates could.

SENTENCES

The sentences that the Magistrates can impose are:-

- . **Discharge** – This means that the Magistrates will not pass a formal sentence, if you stay out of trouble.
- . **Fines** – The amount of the fines vary and depend on the circumstances of the offence and your previous offending record. The Magistrates will take into account your personal circumstances and your ability to pay. Usually you will be allowed to pay fines by instalments. If you fail to pay fines the Magistrates can firstly issue a distress warrant and send Bailiffs to your home address to remove property. If you continue to refuse to pay the Magistrates can ask for you to be sent to prison.
- . **Community Penalties** – These are generally Community Rehabilitation Orders where the Magistrates ask you to see a probation officer to address a particular problem for periods of time which is generally the maximum period of two years. Alternatively a Community Punishment order where you are asked to do unpaid work for the benefit of the community, again the maximum period being 240 hours. If you fail to comply with either of these orders the Probation Service can ask for you to be re-sentenced. If you are unable to complete the Orders for any apparent reason i.e. medical difficulties, you can ask for the order to be revoked.
- . **Imprisonment** – The Magistrates can send you to prison but generally speaking this doesn't happen for a first offence. Before sending you to prison, the Magistrates must ask a Probation Officer to prepare a report. You are at risk of imprisonment if you frequently re-offend, or if the offence is a particularly serious one. In very unusual circumstances the Magistrates can suspend any prison sentence they impose.
- . **Conflict of Interest & Co-Defendants** - If you are charged jointly with another person who also wished this firm to act for them in some circumstances we are able to do so provided there is no conflict of interest between yourself and the Co-defendant. We will advise you about this matter and if there is either a conflict or potential conflict of interest between you then we would recommend that there be separate representation.

OTHER SERVICES

<p>FAMILY LAW We deal with: *DIVORCE *INJUNCTIONS *CHILDREN'S ACT ALL WITH A FREE FIRST INTERVIEW!</p>	<p>PERSONAL INJURY HAD AN ACCIDENT? We deal with: *NO WIN NO FEE CASES JUST ASK FOR A FREE APPOINTMENT TO DISCUSS YOUR CASE!</p>
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