



The Judiciary in Scotland

The Judicial Office for Scotland provides support to the Lord President in his role as Head of the Scottish judges and tribunal presidents. He is supported by the second most senior judge in Scotland - the Lord Justice Clerk.

All judges in Scotland are independent. They make their decisions based on the law and the circumstances of each case.

Scotland has a unique justice system which is different to the rest of the UK.

Criminal cases

There are two types of criminal procedure in Scotland: solemn procedure for more serious offences and summary procedure.

When a trial is held against a person accused of a crime, a **jury** decides the verdict in solemn cases. The **judge** decides the verdict in summary cases.

There are three verdicts in Scotland:

Guilty

Not Guilty

Not Proven

The not proven verdict is unique to Scotland. When the verdict in a case is not guilty or not proven, the accused person cannot usually be retried in court for the crime (except in highly exceptional circumstances, for example if new evidence were found that was not available at the trial of a serious crime).

In all cases where an accused person is convicted of a crime, the judge decides what the appropriate sentence should be.

Sentencing

There are a number of sentencing options in Scotland including prison; community payback; or a fine. Community Payback Orders can involve unpaid work; a compensation payment to a victim; supervision; and mental health, drug or alcohol treatment.

Judges base their sentencing decisions on what they have heard in court from the prosecution and the defence about the circumstances of the crime (including the impact on any victims) and the personal circumstances of the offender. They can ask for background reports about the offender from people such as social workers or psychiatrists. The maximum sentences that can be given in the different criminal courts are set by law and must be followed.

When deciding a sentence, judges take into account a wide range of factors including the harm caused to any victim; public protection; and rehabilitation to help stop the offender from committing more crime.

For information about sentencing, see the Scottish Sentencing Council [website](https://www.scottishsentencingcouncil.org.uk/) at <https://www.scottishsentencingcouncil.org.uk/>

Civil cases

Civil cases are those in which one party brings an action against another party seeking some form of redress or other remedy. There is a wide range of civil matters. A few examples are: family issues such as divorce or adoption; personal injury claims; breaches of a contract and the review of local or central government decisions. The judge will hear evidence (if necessary) from witnesses. The judge will first decide what facts are proved and then decide what should be done as a result. For example, if a person injured at work sues an employer for a sum of money (as damages), the judge decides whether the employer has been negligent and should pay the person, and if so, how much. Occasionally some civil cases will be heard with a jury – for example a high value, personal injury claim.

Judges

There are different types of judges in Scotland.

Justices of the peace deal with less serious, summary criminal cases, such as minor assaults; public disorder; speeding and minor road traffic offences.

Summary sheriffs and sheriffs deal with more serious criminal cases, such as most assaults; housebreaking; robbery and drug related offences. Summary sheriffs deal with only [summary cases](#), while sheriffs deal with both summary and [solemn cases](#). Summary sheriffs deal with a wide range of civil matters, including most family hearings such as adoption orders, while sheriffs deal with an even wider range. There is no upper limit to the value of claims which can be brought in the sheriff court, however **all** claims with a value of £100,000 or less must be raised in this court. For more information, see the Judiciary for Scotland [website](http://www.scotland-judiciary.org.uk/18/0/Judicial-Office-Holders) <http://www.scotland-judiciary.org.uk/18/0/Judicial-Office-Holders>.

The majority of cases in Scotland are heard in the sheriff court. There are 6 sheriffs principal in Scotland who sit as the administrative heads of different areas (called sheriffdoms). When sitting in court, they mainly deal with appeals (considering whether judges have made appropriate decisions) in summary criminal cases and in sheriff court civil cases. These cases are heard in the Sheriff Appeal Court.

The judges who sit in Scotland's highest courts, known as the Supreme Courts of Scotland, deal with the most serious criminal cases such as murder (in the **High Court** of Justiciary); and higher value or more complex civil cases (in the Court of Session). Judges of the Supreme Courts also deal with the more serious or more complex appeal cases. Usually there are 3 judges presiding over these appeals.

	Justice of the Peace Court	Sheriff Court (summary)	Sheriff Court (solemn)	High Court
Who decides the verdict?	Justice of the Peace	Summary Sheriff or Sheriff	Jury	Jury
Who decides the sentence?	Justice of the Peace	Summary Sheriff or Sheriff	Sheriff	High Court judge
What is the maximum fine?	Up to £2,500	Up to £10,000	Unlimited	Unlimited
What is the maximum length of imprisonment?	Up to 60 days	Up to 12 months	Up to 5 years	Up to life

Tribunals

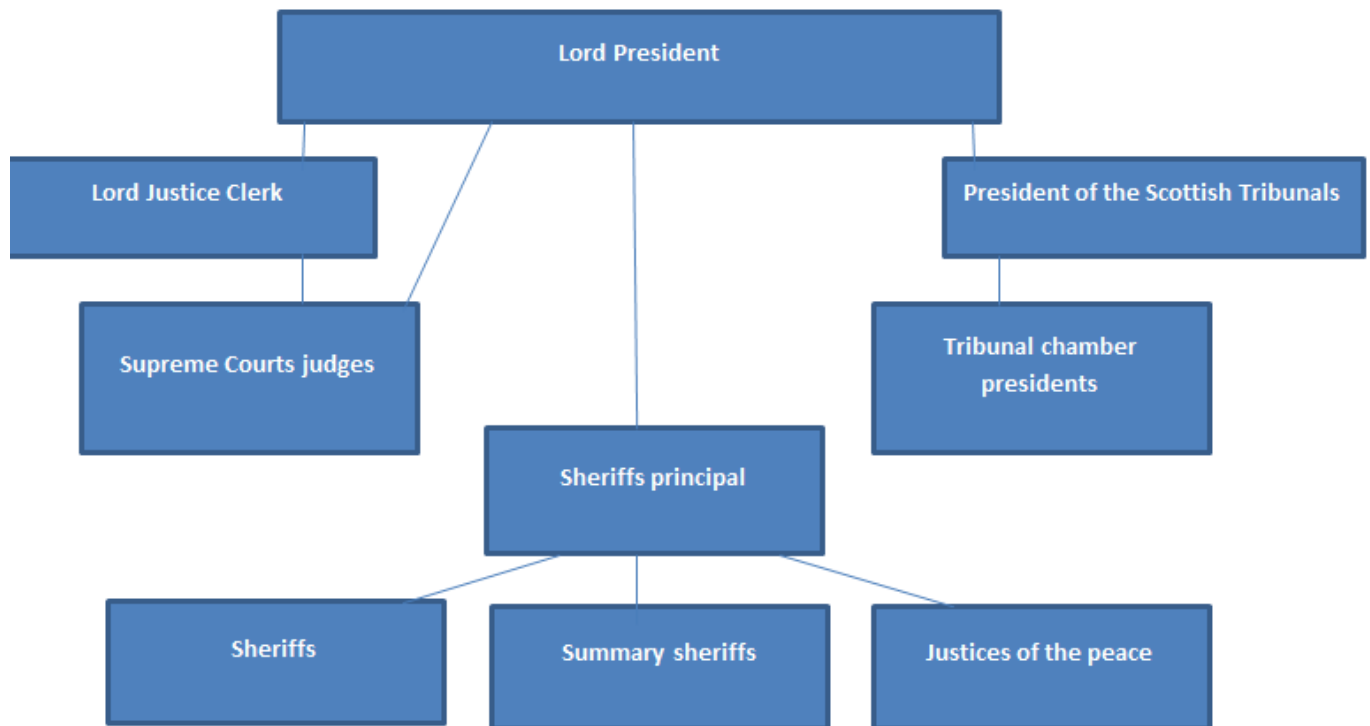
The Judicial Office for Scotland supports the President of Scottish Tribunals in her leadership role. Tribunals are less formal than courts and deal with different types of cases. For example, the [Social Security Chamber](#) deals with appeals against benefit decisions made by the Social Security Agency. Each tribunal has a pool of appointed members who can sit on hearings. These are divided into legal, ordinary and judicial members. The type and number of members assigned to a case depends upon its type and its complexity.

For more information on [tribunals](#) see: <http://www.scotcourts.gov.uk/the-courts/the-tribunals/about-scottish-tribunals>

Future

The court system is continually modernising. The Lord President plays a large part in promoting change. Current plans include improving the way [evidence is taken in court](#) from children and vulnerable witnesses; and extending the use of technology.

This chart shows the judiciary of Scotland



How judges are appointed

Justices of the peace are lay people from across the community who sit in court with a legally qualified adviser and deal with summary criminal cases. They are appointed by the Scottish Ministers on the recommendation of the [justice of the peace advisory committees](#) and are not paid a wage for the work (which is usually part-time).

All sheriffs and Supreme Courts judges are legally qualified lawyers and usually have years of experience in courtroom practice. The application process to become a judge is demanding and each applicant must show how they are capable of meeting the challenges of the job. For more information, see the Judicial Appointments Board for Scotland [website](#).

Once in post, judges must carry out ongoing training on a large range of topics including new laws and Rules; directing a trial; deciding a sentence; and writing opinions in civil cases.

Work

Justices of the peace can handle a large volume of cases, dealing with more than 100 in a single sitting, while sheriffs and Supreme Courts judges can preside over cases lasting weeks, or even months. Some High Court judges must travel 'on circuit' to cover cases across Scotland.

The job is not traditionally 9 to 5 Monday to Friday, and the time spent in court is only a part of a judge's work. Many cases, such as those which involve addressing a jury, or considering sentencing options, must be prepared in advance, often at home in the evenings.

Judges can have additional administrative responsibilities, for example sheriffs principal must ensure that the courts in their sheriffdom run smoothly. This includes overseeing court programming; deciding which sheriffs will sit in which courts; and planning fatal accident inquiries.

In civil cases, decisions (called opinions) will be written from lengthy notes taken during hearings, and can be dozens of pages long.

Judges must also attend a variety of meetings. These can include working groups, for example to address changes to IT; or meetings held by judicial bodies such as the justices' or sheriffs' associations.

Judges are also asked to speak at legal conferences or community events, often held in the evenings or at weekends.

Accountability

Most criminal cases, and many civil cases, are held in open court where the media and public can observe judges at work.

If any party involved in a case feels that the judge has made an inappropriate decision, they can seek to appeal the case and the decision will be considered by higher judges.

For more information, visit the Judiciary of Scotland [website](http://www.scotland-judiciary.org.uk/1/0/Home) at <http://www.scotland-judiciary.org.uk/1/0/Home>.

You can also follow us on Twitter [@JudgesScotland](https://twitter.com/JudgesScotland) or contact us at judicialcomms@scotcourts.gov.uk