

PENALTIES AND SENTENCING

What is a fiscal fine?

If a report is made about you to the Procurator Fiscal, you may be offered the chance (in less serious cases) to have the matter dealt with outside the court process, by paying a sum of money - "a fiscal fine" - and/or compensation to the victim of a crime. A fiscal fine may be between £50 and £300, and compensation may be up to £5,000. You don't have to appear in court.

What should I do if I receive the offer of a fiscal fine?

You should take action. If you do not tell the court within 28 days that you reject the offer, you will be taken to have accepted it, and you will be liable to pay it in full. Fines enforcement steps may be taken if you don't pay.

If you reject the offer, the Procurator Fiscal will decide whether to prosecute you in court. You should seek advice from Stevenson & Marshall, if you are in any doubt as to whether or not to accept an offer of a fiscal fine.

Is a fiscal fine a criminal conviction?

Yes, if you are prosecuted for any offence in the two years following payment of a fiscal fine then it can be presented to the Court as a conviction. It will also be shown on all future Disclosure Scotland Applications, which could affect your employment prospects. For this reason, you should think seriously before accepting a fiscal fine unless you fully accept that you were guilty of the offence.

What are the sentencing powers of Justice of the Peace Court?

The Justice of the Peace Court can send someone to prison for up to 60 days and/or impose a fine of up to level 4. The Justice of the Peace Court deals with less serious offences such as breach of the peace, minor assault, vandalism, theft, speeding, TV licensing, and many other offences.

What are the sentencing powers of the Sheriff Court?

In Summary Procedure cases i.e. less serious cases heard in the Sheriff Court (without a jury), the Sheriff may generally send someone to prison for up to twelve months and/or fine them up to level 5. In some cases, however, the Sheriff may have increased powers and can sentence up to two years' imprisonment for offences involving breach of bail orders.

Solemn Procedure is used in serious cases where the charge can attract a sentence in excess of twelve months in prison or a fine of more than £5,000. Trials are heard before a Sheriff sitting with a jury. The Sheriff can send someone to prison for up to five years and impose an unlimited fine. If a Sheriff feels his or her sentencing powers insufficiently match the nature of the crime/offence, the case may be remitted to the High Court.

What are the sentencing powers of the High Court of Justiciary?

The High Court has unlimited sentencing powers. All crimes may be tried in the High Court although it is more common for the most serious of crimes to be tried e.g. murder, rape, drugs etc.