



# EXPLAINING the COURTS



AN INFORMATION BOOKLET

This information booklet is intended to give general information and guidance to the public about the courts system. It is not intended to be a binding legal document, a complete statement of the law or an interpretation of legislation. Anyone who has a legal problem should seek legal advice from a solicitor. Published jointly by the Courts Service, the Law Society of Ireland and the Bar Council of Ireland, January 2003.



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At **some stage** in our lives, every one of us is likely to have to **go to court** for one reason or another. We might be asked to **sit on a jury** or to **give evidence** in a **court case**, or we might take a case for **compensation** following an accident. This booklet aims to **explain** how the **court system works**, and **what you can expect** if you ever have to go to **court**.

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## What do the courts do?

Every country has its own courts system, some of which are very different to the system that we have in this country, but they all have the same aim: to see that justice is done. In Ireland, there are two types of court case: civil actions and criminal prosecutions. In both instances, it is the court's job to ensure that the outcome of the case is fair and reasonable.

In **civil actions**, the courts try to resolve disputes between private individuals. These actions can include personal injury claims arising from road traffic accidents, breach of contract actions, disputes over rights of way or planning permission and so on. Civil actions are taken by individuals against other individuals or organisations. The state generally has no part to play in such cases.

**Criminal prosecutions**, on the other hand, are prosecuted by the state, through the director of public prosecutions. Criminal cases generally deal with those things that are considered wrong or illegal, such as murder, rape, theft, robbery and so on. While the aim of criminal law is to punish, usually through a jail sentence or a fine, a civil claim is most often used to seek compensation or to recover money owed.

Many cases, such as personal injury actions or minor traffic offences, are decided by a judge sitting on his own, without a jury. However, all serious criminal offences (and a few civil cases, such as libel and defamation) are tried by a judge and jury. In these cases, the judge will guide the jury on legal matters, while the jury must decide the facts and return its verdict.

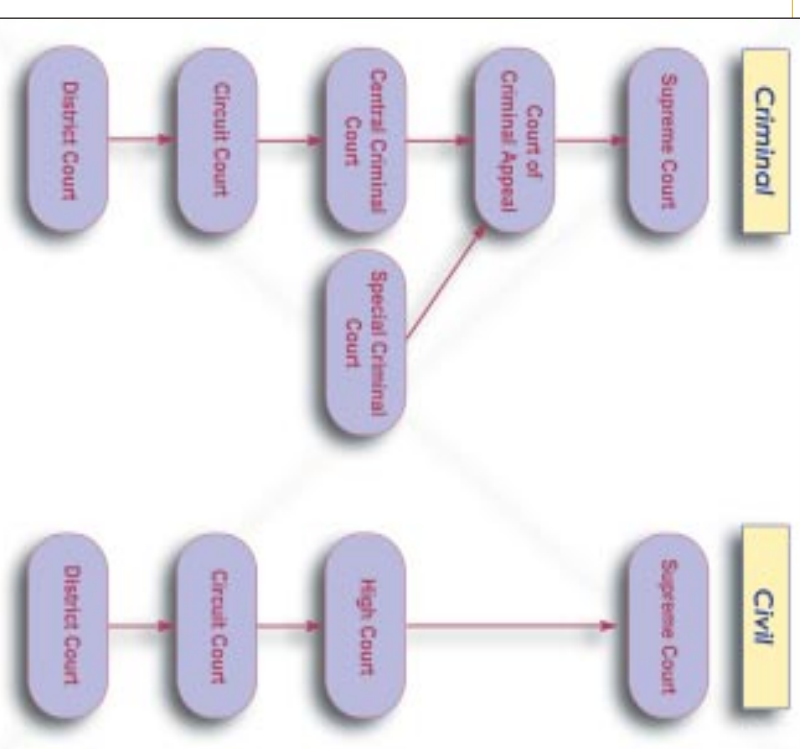
## The structure of the Irish courts

In Ireland, there are basically four distinct types of court: the District Court, the Circuit Court, the High Court and the Supreme Court. Each court deals with specific types of cases.

### The District Court

The District Court is organised on a local basis throughout the country. It deals with civil actions where the compensation claimed does not exceed €6,350. It also handles liquor licensing cases and a wide range of family law cases, including custody and maintenance of children and applications for barring orders. The District Court also deals with criminal matters such as drunk driving, speeding, assault and criminal damage and the initial hearings of serious offences to be tried in the higher criminal courts. A judge sitting alone deals with these cases. Consumers can use the small claims procedure in the District Court to recover sums up to €1,270.

## HOW OUR COURTS ARE ORGANISED



### The Circuit Court

The Circuit Court is organised on a regional basis. It deals with civil cases which do not exceed €38,000. It can also deal with some liquor licensing cases and a wide range of family law cases, including divorce and judicial separation. In criminal matters, the Circuit Court sits with a judge and jury and can try all but the most serious offences, such as murder and rape. The Circuit Court also hears appeals from the District Court in civil and criminal matters.

### The High Court

The High Court is based in Dublin and has the power to hear all criminal and civil matters (including family law cases) but usually hears only those cases that cannot be dealt with by the lower courts. This means that in civil actions it hears cases where the claim exceeds €38,000. It also hears appeals from the Circuit Court in civil matters and can give rulings on questions of law raised in the District Court.

When the High Court is dealing with criminal cases, it is known as the Central Criminal Court. It tries the most serious offences, such as murder and rape, which the

Circuit Court cannot deal with. A judge and jury try these cases.

### The Special Criminal Court

The Special Criminal Court consists of three judges sitting without a jury and primarily deals with criminal charges involving terrorist organisations, and, more recently, with charges relating to organised drug activities. The court was established by the government to hear cases that the ordinary courts might be unable to handle because of fears of the possibility of jury intimidation.

### The Court of Criminal Appeal

The Court of Criminal Appeal hears appeals relating to a criminal conviction or sentence from the Circuit Court, Central Criminal Court or the Special Criminal Court.

### The Supreme Court

The Supreme Court is the highest court in the land and hears appeals from the High Court and occasionally from the Court of Criminal Appeal. The President of Ireland may refer any Bill passed by the Oireachtas to the Supreme Court to determine whether it is unconstitutional. The Supreme Court can also give rulings on questions of law raised in the Circuit Court.

## How can you become involved in the court process?

You are most likely to come into contact with the courts either because you have taken an action yourself, such as a personal injury claim, or because you have been directed to attend in court, for example, as a witness or a juror.

If a person brings a case against another person, he or she becomes an active party in a legal case and is known as a **litigant** – in other words, someone who takes an active part in litigation. The person bringing the claim is known as the **plaintiff**. The person resisting or defending the claim is known as the **defendant**.

In a criminal case, a person who has been injured or suffers loss as a result of a crime is usually referred to as the **victim**.

The person facing prosecution for the crime is known as the **accused**. In a criminal action, the victim is not a party to the actual proceedings since crimes are prosecuted by the state.

Sometimes an eyewitness to a road traffic accident or to a crime may be called as a **witness** at the trial of the case. If called, a witness must give truthful evidence under oath to any questions put to him. Giving false evidence under oath is a crime known as **perjury**. Expert witnesses such as engineers or doctors may also be called to give evidence.



The inside of a typical courtroom

Trial by jury is one of the most basic rights in a democracy. Jury members are selected from the electoral register and if you are asked to serve on a jury you must do so (although some people such as gardai and prison officers are exempt from jury service and others can be excused, such as doctors and full-time students). It is an offence not to appear on the date indicated in the jury summons. A jury consists of 12 people and their duty in a criminal trial is to decide whether the accused is guilty or innocent. In a civil trial, they weigh up the evidence and decide whether to find in favour of the plaintiff or the defendant. While the judge guides the jury on matters of law and summarises the evidence, it is the jury that considers the facts and returns the verdict.

## A quick guide to a criminal case

Michael has been arrested and charged with intentionally causing serious harm to a shop assistant called Linda. The prosecution claims that Michael pushed Linda down on a counter and repeatedly banged her head against it, fracturing her skull. Michael has told his lawyers that Linda had accused him of trying to steal from her shop. He claims that Linda attacked him and fell over and that was how she was injured.

A barrister who has been instructed by a solicitor represents Michael. The state prosecutes the case and is represented by a barrister who is instructed by the chief prosecution solicitor. Michael was initially charged in the District Court but was sent forward for trial to the Circuit Court because of the seriousness of the offence. In the Circuit Court, the judge presides over the trial and ensures that it is conducted fairly.

The judge does not permit the state to give evidence that Michael had previous convictions for assault nor does he allow Michael's barrister to ask Michael the question: 'Didn't Linda accuse you of stealing from her shop?' A lawyer is not allowed to ask leading questions (that is to say, questions which suggest the answers required) of his own witnesses.

The jury hears all of the evidence put before it, including evidence from other eyewitnesses who were present in the shop at the time of the incident, and the submissions of the lawyers. The judge then addresses the jury and summarises the material facts and explains the legal principles involved. In particular, he will explain to jury members that they cannot convict Michael unless they are satisfied of his guilt 'beyond reasonable doubt'. The jury then retires to a separate room to consider all the evidence. When the jurors return to the court, the judge is informed that they have found Michael guilty of the offence with which he was charged. The judge has the responsibility of deciding what sentence to impose up to the maximum permitted by law for the particular offence.

## Who are the people in the courtroom?



### Members of the public

- The judge is in charge of court proceedings and decides any legal issues arising in the case. If the case does not involve a jury, the judge also decides questions of fact, such as the guilt or innocence of the accused, or which party wins in a civil action.
- The registrar sits in front of the judge and records any orders made by him/her. The registrar also swears in the jury and administers the oath to witnesses.
- The stenographer is responsible for accurately recording everything that is said in court during the case, including any evidence given by the witnesses. This record is known as a transcript.
- The witness sits to one side of the judge and gives testimony in open court.
- The jury sits together on one side of the courtroom where jurors have a clear

view of the judge and any witnesses.

- The tipstaff is a special assistant to the judge. One of his/her duties is to announce the arrival and departure of the judge from the courtroom.
- The barrister faces the judge and any witnesses. The barrister's role is to argue his/her client's case, to state the relevant law and to examine any witnesses on the evidence which they give to the court. The solicitor hires the barrister, who traditionally has few direct dealings with the client before the case begins.
- The solicitor sits facing the barrister and instructs the barrister during the court case. The solicitor works with the barrister and the client in preparing the case and collecting the evidence. Like barristers, solicitors can argue the client's case in court, state the relevant law and examine witnesses.



## A quick guide to a civil case

Mary hired a firm of builders called Fab Construction to refurbish and extend her new home. On completion of the job, Mary says she is dissatisfied with the quality of the work. She refuses to pay the builders, who then instruct solicitors to sue her in the Circuit Court for the sum of €20,000 which they claim is owed under the terms of their written building contract with Mary. In this action, Fab Construction is the plaintiff and Mary is the defendant.

Before the case goes to court, Fab Construction's solicitors prepare a document called a **civil bill** which is lodged in the Circuit Court office and which sets out the basis for their claim for payment. Mary's solicitors dispute the claim and prepare a document called a **defence** which states that the builders have not completed the work in accordance with Mary's specifications and that, therefore, Mary does not owe the money. Before the hearing date, Mary and Fab Construction organise a joint inspection of the property by their respective structural engineers.

On the day of the hearing, each party is represented by a barrister, who presents the case on their behalf. Fab Construction calls its engineer as an expert witness to detail the work completed on Mary's house and to testify that the work was up to standard. Mary's engineer testifies that the house had not been properly damp-proofed in accordance with her instructions. In court, the judge listens to the evidence of both parties and to the legal arguments. He accepts Fab Construction's evidence that most of the work has been completed in accordance with the building contract. However, he also accepts Mary's evidence that there is still a problem with damp. Therefore, he allows a discount of €5,000 on the amount owed to the builders and orders her to pay the sum of €15,000. He also orders Mary to pay the builders' legal costs in bringing the action.

In a civil trial, the plaintiff does not have to convince the judge that he or she is right 'beyond reasonable doubt'. It is enough to prove the case on the balance of probabilities – this means that the plaintiff must prove his/her version of events is more likely, or more believable, than the defendant's.

## Useful contacts

The Courts Service is responsible for the administration and management of the courts in Ireland:

The Courts Service Information Office  
15/24 Phoenix Street North  
Smithfield  
Dublin 7  
Tel: 01 888 6462  
[www.courts.ie](http://www.courts.ie)

The Law Society of Ireland is the representative and regulatory body for the solicitors' profession in Ireland:

The Law Society of Ireland  
Blackhall Place  
Dublin 7  
Tel: 01 672 4800  
[www.lawsociety.ie](http://www.lawsociety.ie)

The Bar Council is the professional body for barristers in Ireland:

The Bar Council  
Law Library  
Four Courts  
Dublin 7  
Tel: 01 817 5000  
[www.lawlibrary.ie](http://www.lawlibrary.ie)

The OASIS (On-line Access to Service, Information and Support) website provides information on public services for use by the general public based on life events (including information on justice matters). Contact: [www.oasis.gov.ie](http://www.oasis.gov.ie)