



Date **14 April 2015**

Position statement **Single justice procedure**

What is the background to the single justice procedure?

Magistrates' courts completed criminal proceedings for 478,662 adult summary motoring cases and 588,823 adult summary non-motoring cases in 2013 – 66.5% of the total. In a clear majority of these cases, no plea was given by defendants. Defendants pled not guilty in about 9-10% of the non-motoring cases and 6% of the motoring cases.

Although these statistics do not break down into imprisonable and non-imprisonable summary offences, they give some idea of the number of cases involved and of the currently low levels of engagement by most defendants. In practice, it is increasingly common to have dedicated traffic courts, dealing specifically with one type of these high-volume, low-level cases.

These sorts of cases are the kind which the proposals for the single justice procedure are intended to address. They would be limited to summary-only, non-imprisonable offences, where the defendant has neither pled 'not guilty' nor expressed any objection to being tried under the new procedure.

The Government has stated that it is intended to cover offences such as TV licence evasion, various non-imprisonable motoring offences and rail fare evasion.

How will the procedure work?

The single justice procedure is currently being piloted at Lavender Hill Magistrates' Court. Once rolled out across England and Wales, notice would be served on the defendant and on the court that a case would be tried under this procedure. If the defendant did not object to this, the case could then go ahead.

The case would be tried by a single magistrate 'on the papers'. These would be the written charge, the single justice procedure notice, documents containing information described in that notice and other documents specified by Criminal Procedure Rules, as well as any written mitigation submitted by or on behalf of the defendant.

This would no longer have to be carried out in open court – it could, for instance, be dealt with in an unused room in a court building, on a computer. Cases could also be dealt with in any available court – eligible traffic cases in Exmouth could, in principle, be heard in a court in Essex.

The magistrate would be able to impose fines and other necessary ancillary orders – like costs orders and endorsements on licences. A single magistrate would not be able to disqualify a driver until s/he had been offered a further opportunity to make representations. They would not be able to imprison anyone or issue community orders under this procedure.

If, at any point, a magistrate considers that it is not appropriate for the case to be dealt with under this procedure, he or she would be obliged to stop the process, which would then take place in a full magistrates' court.

MA position

The Magistrates' Association supports the Government's aim of dealing with high volume, low level regulatory cases more efficiently, while maintaining a fair system of justice as our highest priority. The proposed procedure is workable, and the MA will engage with the Government on procedural matters to make sure that the proposed measures are implemented effectively. The MA's aim throughout has been to ensure that the process works well, that openness and transparency are effectively preserved and that members of the public retain confidence in the justice system.

Openness and transparency

Preserving an open and transparent system, where justice is seen to be done, will be key. The MA is well aware that few members of the public attend to listen to and observe cases where the defendant is absent, or any of the high-volume, routine cases for which the single justice procedure is designed. However, it would nonetheless be sorry to see the principle of openness abandoned, even for the cases which the new procedure deals with. The MA would be concerned if the public began to think that these cases were no longer criminal cases handled by magistrates, with the same rigour as every other case. The MA would like to see greater clarity about how openness will be ensured – and how this will be meaningful in practice, with opportunities for local media to report in the public interest.

The MA welcomes the Government's stated commitment to ensuring that lists are published on the day cases are dealt with under this procedure and that courts would be obliged to provide information to the public on request. The MA drafted amendments to what is now the Criminal Justice and Courts Act which would have provided that clarity on the face of the Bill and required key information about cases to be published in advance of and after the trial.

The Government's response was to agree that similar arrangements should be made, but to say that such information should be included within the Criminal Procedure Rules, rather than primary legislation.

DVLA records

Motoring offences are likely to make up a very large proportion of the single justice procedure cases. In order to disqualify a driver, a single magistrate will need to give the defendant an opportunity to make representations and, if s/he wishes to do so, refer the case to a traditional magistrates' court.

In order to know whether they need to do this, magistrates will need access to DVLA records. The original Bill made no provision for information apart from the charge itself and documents specified by the Criminal Procedure Rules. They would all have to be served on the defendant and the court at the same time.

This raised the practical issue that magistrates might be required to sentence offenders without the correct information about the number of points or other endorsements on their licenses. Between the issuing of a single justice procedure notice and the use of that procedure, more points might be added to a license.

The MA welcomes the Government's later amendments in response to its concerns, which allowed information to be described in the original notice and then viewed by the magistrate. This would allow for up-to-date records to be viewed. The MA tabled amendments which would have required information to be specified as relevant to the charge being tried, but the Act as passed did not include these.

Future work

The MA will be keen to work together with the Criminal Procedure Rules Committee and others to ensure that the details of the single justice procedure are managed well and that our key concerns about transparency and openness are met. It will also follow the progress of the Lavender Hill pilot with interest.