

THE PAGAN OATH

A guide for Pagans giving evidence at
Magistrates, Crown or Civil courts in the UK

POLICE PAGAN

ASSOCIATION

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Section 1

Foreword by the President of the Pagan Federation

This document, produced by the Police Pagan Association, is invaluable for Pagans who may find themselves having to attend and give evidence in a court case. The information is presented in a straightforward, practical way that helps guide people through what can be a confusing and complicated process.

The Pagan Federation is proud to support this excellent addition to advice available for Pagans interacting with official bodies in wider society, and would like to thank the Police Pagan Association for its production and for its continued service in support of Pagan police officers and in providing a bridging link between Pagans and the police.

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Mike Stygal
President, Pagan Federation



Section 2

Magistrates Court

Most criminal cases (about 95 per cent) are heard in a Magistrates' Court. The Magistrates are usually people who live in the local community, sometimes called Justices of the Peace. There are usually three Magistrates who are supported by a legally trained advisor. Sometimes cases are tried by one Magistrate, called a District Judge, who is a lawyer.

Magistrates' courts are not as formal as the Crown Court; the Magistrates do not wear wigs and only the wear black gowns.

Crown Court

A very small percentage of cases (about five per cent) are heard in the Crown Court. There are three situations where a case may be tried at the Crown Court:

- Serious crimes
- Cases where the defendant (the person accused of the crime) has asked to have his case tried by a jury
- Magistrates may send a case to the Crown Court if they feel they do not have the power to set a sentence as severe as the crime deserves

Cases at the Crown Court are tried by a jury. These are 12 people from the general public who listen to the evidence presented during the trial and decide if the defendant is guilty of the crime. The Judge decides on matters of law during the trial, such as whether certain evidence is allowed to be presented. The Judge also makes sure the trial proceeds in a fair way. At the end of the trial if the defendant is found guilty the Judge decides the sentence for the crime (for example how long the defendant must spend in prison).

The Prosecutors

In both Crown Court and magistrates' court, there will be lawyers called Crown Prosecutors, who are responsible for reviewing and, where appropriate, prosecuting criminal cases following investigation by the police. They also advise the police on matters relating to criminal cases.

In each case reviewed the prosecutor will consider whether there is sufficient evidence and, if so, whether the public interest requires a prosecution. Crown Advocates prepare and prosecute the cases on behalf of the Crown.

The Crown Prosecution Service (CPS) has a legal obligation to ensure that someone from the CPS is introduced to you at court and answers your questions.

The defendant will have their own barrister and legal team in court to defend them against the charges.

Section 3

Giving a witness statement

A witness statement is your written or video recorded account of what happened to you. A police officer will ask you questions and write down what you have said. You will be asked to read it and sign it with your name. When you sign a witness statement you are saying that you agree the statement is a true account of your experience. Your witness statement may be used as evidence in court.

You should be given the name of the officer taking your statement and their rank and number. You should also be given the name of the officer who will be in charge of the case and their contact details. This may be the same officer who takes your statement.

You will be given a leaflet 'Giving a witness statement to the police - what happens next?' This leaflet explains who to contact to find out how the case is progressing and what happens next.

Before the trial

Before the day of the trial it is a good idea to find out as much as you can about what will happen and what is expected of you.

Your witness care officer may be able to arrange a visit to the court before the trial.

Your witness care officer will also do a 'needs assessment' with you to see if you need special help in court. This help may range from an interpreter, to a closed-circuit TV link.

Before the trial you will meet a member of the CPS team to discuss your witness statement and talk to you about what will happen in court. Your witness care officer will keep you informed about what is happening.

Meeting with the prosecutor

As well as you, some other people will be at the meeting. Other people who may be at the meeting are:

- a relative, carer or supporter who you would like to go with you;

- a person who you may need to help you communicate at the meeting, for example, a sign language interpreter;
- the CPS lawyer and CPS caseworker who are responsible for your case;
- the lawyer who will present the prosecution case in court (this may be a CPS lawyer or a prosecution barrister); and
- the police officer in the case.

If you want your own legal representative to go to the meeting, this will usually be allowed. However, you will be responsible for paying your legal representative and making sure they go to the meeting.

The CPS will make the final decision about who will go to the meeting. When we make the decision, we will take account of your needs and views.

The CPS will pay the reasonable expenses and allowances of the people who go to the meeting, in line with The Crown Prosecution Service Regulations 1988. This will not include any legal representative who you may want to be at the meeting.

The purpose of the meeting

- To develop a link between you and The CPS prosecutor, and reassure you that your needs and wishes will be considered.
- To confirm which special court measures will be most appropriate for you to give your evidence at the trial in the best way.
- If the meeting is not at the same time as the visit organised by the Witness Service to get you used to the court, it will explain the court procedure and the roles of the various people at the trial.

The meeting may take place before or after the CPS apply to the court for special measures.

If the meeting takes place before the application to the court for special measures is made:

- it will explain the special measures which were identified at an earlier stage of the case by the police and The CPS prosecutor;
- there will be a discussion with you to check that those special measures are still appropriate for an application to be made to the court; and
- it will allow the CPS to get your views about which special measures we should apply for.

The police will usually tell you the outcome of the application to the court. If the meeting takes place after the application to the court for special measures is made:

- it will tell you what special measures the court has ordered for the trial.

If the court have decided not to apply for any special measure or measures:

- the meeting will explain the decision; and
- the CPS will take account of any comments or views you, or someone on your behalf, may have. If appropriate, we will reconsider the decision not to apply for any special measure or measures.

The CPS will make the final decision as to whether to apply for any special measures.

Things to be aware of

It will not be possible to talk about your evidence or any other matter relating to the evidence in the case. If you need to discuss your evidence or any other matter relating to the evidence in the case, you will need to do this with the police officer in the case, separately from the meeting with the prosecutor.

Although a relative, carer or supporter may go to the meeting with you, they may not be allowed to sit with you when you give evidence at the trial.

The CPS will make a written record of the meeting and, in most cases, send a copy of this to the defence.

Section 4

Vulnerable witnesses

For some people the process of giving evidence in court can be particularly difficult. Children under 17, victims of sexual offences and people with communication difficulties are some examples of people who may need special help.

These people (described as vulnerable or intimidated witnesses), may be allowed to use special measures to help them give their evidence in the best possible way.

The special measures that may be available are:

- Giving evidence through a TV link: The witness can sit in a room outside the courtroom and give their evidence via a live television link to the courtroom. The witness will be able to see the courtroom and those in the courtroom can see the witness on a television screen
- Video recorded evidence: The witnesses' evidence is videotaped and played to the court
- Screens around the witness box. A screen is placed around the witness box to prevent the witness from having to see the defendant
- Removal of wigs and gowns. The judge and lawyers in the Crown Court do not wear gowns and wigs so that the court feels less formal. This is usually used for young witnesses
- Evidence given in private. This is when members of the public are not allowed in the courtroom
- Use of communication aids. For example, an alphabet board
- Examination through an intermediary. An intermediary is someone who can help a witness understand questions that they are being asked, and can make his or her answers understood by the court

If you feel you need extra help in court then talk to your witness care officer who will discuss the options with you and if necessary apply to the court for permission to use special measures.

Section 5

Giving evidence

The Courts Service has a legal requirement to make sure you have a separate waiting area and seat in the courtroom away from the defendant's family, where possible.

They will also try to make sure that you do not have to wait more than two hours to give evidence. You will not be allowed into the court room to observe the trial until you have given your evidence.

When you are called into the courtroom the following things will happen:

- You will be shown to the witness box
- You should stand up, but if you find standing difficult, you can ask the magistrate or the judge if you can sit down
- You will be asked to take the oath. This means you have to swear to tell the truth, usually on the holy book of your religion. If you prefer, you can affirm, that is, to promise to tell the truth.

The Pagan oath

Paganism is a recognised faith in all courts run by Her Majesty's Court & Tribunal Services (HMCTS).

Paganism is featured in the Equal Treatment Bench Book, which used by the judiciary to ensure the fair and equal treatment of all persons involved in the courts, whether they are a member of staff, a witness, a victim or a defendant.

The standard Pagan oath is:

"I swear by all that I hold sacred that the evidence I give shall be the truth, the whole truth, and nothing but the truth."

Whilst this is the most common type of oath, there are several versions of every oath used in different circumstances which are dependent on the Court, the type of case, and the role of the person taking the oath.

The Promissory oath should be taken by any person before a youth or family court and by a child before any other court. A child under the age of 14 shall give their evidence unsworn in criminal proceedings:

"I promise by all that I hold sacred that the evidence I shall give shall be the truth, the whole truth, and nothing but the truth."

The Juror's oath should be taken by any person who is sat as a jury member in Crown Court:

"I swear by all that I hold sacred that I will faithfully try the defendant and give a true verdict according to the evidence."

The Interpreter's oath should be taken by any person who employed as an interpreter in an official capacity by the Court:

"I swear by by all that I hold sacred that I will well and faithfully interpret and make true explanation of all such matters and things as shall be required of me according to the best of my skill and understanding."

There have been some reported issues with courts not having the Pagan oath available, and others being refused access to it; if you have any issues please contact us.

- All courts run by HMCTS must, by law, allow access to the Pagan oath to those wishing to use it.
- The court usher should have access to the cue cards within the court which must include the Pagan oath.
- It is advisable to notify the usher, or another member of court staff, that you wish to use the Pagan oath before taking the stand.
- The presiding Judge or Magistrate reserves the right to refuse access to an oath, and can insist that an affirmation is used instead; this only happens in very rare circumstances and applies to anyone, regardless of their faith or belief.

If you have any issues in relation to the Pagan oath please contact the Police Pagan Association. Alternatively, you can contact the Court Manager, The HMCTS Diversity Team, or the Office of Judicial Complaints (OJC).

Those swearing on the Pagan oath need not use a book when doing so. Some practitioners may choose to swear on a book with significant spiritual meaning to them, but permission must be sought from the court usher beforehand.

Being questioned

If you are a witness for the prosecution the Crown Prosecutor or Crown Advocate will ask you questions first, then the defence will ask you questions. This is known as cross-examination.

Although it can be worrying, cross-examination is an essential part of our justice system. It is important to remember:

- It isn't personal: it's the lawyers' job to make sure you have not made a mistake.
- You are not on trial: The lawyers are not trying to make people think you are stupid, or call you a liar. If the questions become too aggressive, the lawyer who called you as a witness has a right to ask the judge or magistrates to change their style of questioning. The judge or magistrates can also ask the lawyer to stop the questions.
- The law in England and Wales is based on the idea that a defendant is innocent until proven guilty: Cross-examination tests your evidence to make sure it really proves something.

You may also be asked questions by a magistrate, the clerk or the judge. In the Crown Court the jury can write down questions for the judge to read out.

Once you have given your evidence, the court will tell you that you may leave the witness box. You may be told that you are released, this means that you can leave. You may be asked to stay after you have given evidence. You can stay and listen to the rest of the case if you want to.

When both the prosecution and the defence have presented their evidence, the Crown Prosecutor and the defence lawyer will summarise the evidence from their point of view and present arguments to support their case. This is called 'closing arguments' or 'summing up'. Then, depending on where the case is heard, the jury (in Crown Court), the magistrates or the district judge (magistrates' court) will then decide whether or not the defendant is guilty.

Your witness care officer will tell you the result of the case.

Section 6

Sentencing

Magistrates and judges are responsible for deciding what sentence to impose on people found guilty of a crime. They have to consider the following factors:

- The facts of the case
- Punishment
- Reducing crime
- Protecting the public
- Rehabilitating the offender
- Restorative justice – trying to repair the damage the crime has done to the victim and community
- Sentencing guidelines, these are guidelines set down by the Sentencing Advisory Panel and the Sentencing Guidelines Council
- Circumstances of the offender - the Probation Service may need to produce a report about the offender.

There are four types of sentence available to the courts, depending upon the seriousness of the crime. They are:

1. Discharge – this is when the court decides that given the character of the offender and the nature of the crime, punishment would not be appropriate. There are two types of discharge:
 - Absolute discharge - no further action is taken, since either the offence was very minor, or the court considers that the experience has been enough of a deterrent. The offender will receive a criminal record.
 - Conditional discharge - the offender is released and the offence registered on their criminal record. No further action is taken unless they commit a further offence within a time decided by the court (no more than three years).
2. Fines – the court can order that the offender pays a fine. The maximum fine allowed in a magistrates' court is £5000. Fines are unlimited in the Crown Court.
3. Community sentences – these combine punishment with activities designed to change offenders' behaviour and to make amends - sometimes directly to the victim of the crime. These can include:

- Compulsory (unpaid) work
 - Participation in specified activities
 - Programmes aimed at changing offending behaviour
 - Prohibition from certain activities
 - Curfew (may involve electronic tagging)
 - Exclusion from certain areas
 - Residence at a particular place
 - Mental health treatment
 - Drug treatment and testing
 - Alcohol treatment
 - Supervision
 - Attendance at a particular place
4. Imprisonment - for the most serious offences the court may impose a prison sentence. The length of sentence is limited by the maximum penalty for that crime. The sentence imposed by the court represents the maximum amount of time that the offender will remain in custody.

Section 7

After the trial

People convicted by a Magistrates' Court can appeal to the Crown Court against their conviction and the sentence. People convicted by the Crown Court can appeal to the Court of Appeal.

The Court of Appeal sits in the Royal Courts of Justice in London, consists of two divisions:

The Civil Division, which hears appeals from:

- The three divisions of the High Court (Chancery, Queen's Bench and Family Division)
- From the County Courts across England and Wales,
- From certain Tribunals such as the Employment Appeal Tribunal, the Immigration Appeal Tribunal, the Lands Tribunal and the Social Security Commissioners.

The Criminal Division, which hears appeals from the Crown Court.

The Court of Appeal is the highest court within the Senior Courts, which also includes the High Court and Crown Court.

If these appeals are rejected they can go on to apply for permission to appeal to the House of Lords.

The Criminal Cases Review Commission is independent of both government and the courts and reviews alleged miscarriages of justice that have been through the appeal process. It can refer a case back to the Court of Appeal if there is a possibility that either a conviction or a sentence would not be upheld. Referral of a case to the Commission depends on some new argument or evidence being discovered that was not raised at the trial or appeal.

During the sentence

If you are the victim of a violent or sexual crime and the defendant/offender in your case was sentenced to 12 months or more in prison, then the National Offender Management Service (NOMS) is required by law to contact you.

Under the Victim Contact Scheme, NOMS will give you general information at key stages in the offender's sentence, such as when:

- the offender is transferred to a different category of prison
- the offender applies for release from prison

NOMS will be unable to give you detailed information about offenders, for example which prison the offender is in, the exact date of release or exact location of release.

The Parole Board is required to take into consideration the risk to you when considering whether it is safe to release an offender on parole. You are able to make a victim's personal statement that will be considered by the Parole Board when making its decision.

Giving a victim personal statement

The Victim Personal Statement is important and gives victims a voice in the criminal justice process by helping others to understand how a crime has affected the victim. If a defendant is found guilty, the court will take the Victim Personal Statement into account, along with all the other evidence, when deciding upon an appropriate sentence.

Victims who opt into the Probation Victim Contact Scheme for victims where the offender has been sentenced to custody for 12 months or more for a serious sexual or violent offence, must be given the opportunity to make a Victim Personal Statement to the Parole Board in those cases where the offender has a Parole Board review.

The Victim Personal Statement (VPS) gives victims the opportunity to explain how the crime affected them and their family, and what the impact of release will be.

Section 8

Document Control

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