



SQE1 · FLK2 · CRIMINAL PRACTICE · 2026 - 2027

Criminal Litigation

for the SQE: from the police station to appeal

Detention, interview, bail, allocation, evidence, trial, sentencing and appeals, in the order they happen.

The Ultimate SQE Success Guide.*

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Every criminal question asks the same thing: where is the case now?

What is This Guide?

A practical route through **Criminal Law and Practice for SQE1**: one adult case followed from arrest to appeal. Detention and the custody clock, the interview and silence, identification, **bail**, the first hearing and **allocation**, case management and disclosure, the evidence rules, the trial, **sentencing** and appeals. Three worked examples and a decision tree, updated for the 2026 changes to bail and suspended sentences.

Who This Guide is For?

- SQE1 candidates sitting FLK2 in 2027
- Anyone who mixes up the ranks, the hours and the days
- Candidates revising from books printed before March 2026
- Paralegals in crime teams who want the rules behind the forms

Why It Matters?

Criminal practice questions reward knowing where the case is. Most wrong options describe a real rule at the wrong stage or with the wrong person: an inspector where it must be a superintendent, a clock that starts at arrest, an inference without a solicitor, an appeal counted from conviction. Know the order, the decision-makers and the limits, and most answers follow.

How Criminal Practice Is Tested



The SRA now calls the subject **Criminal Law and Practice**. It is an **FLK2** subject and, from January 2027, it sits in **session 2** with Property Law and Practice, Solicitors Accounts in the property context, and Criminal Liability. A question gives you a suspect, a defendant or an offender at one point in the case, and asks what happens next, who decides, by when, or what the court can do.

The four assessment areas	In short
Advising at the police station	Detention and reviews, the right to legal advice and to have someone told, identification procedures, the interview, silence and adverse inferences, the appropriate adult
Pre-trial considerations	Bail, the first hearing, the representation order, plea before venue, allocation and sending
Meeting the client's objectives	Case management, disclosure, and admitting and excluding evidence: identification, silence, hearsay, confessions, bad character, s 78
Trials, sentencing and appeals	Trial procedure, sentencing and Newton hearings, appeals from both courts, and the youth court

How much of the paper

The blueprint gives Criminal Law and Practice **14 to 20%** of FLK2. Our specification checklist has 94 lines for it.

Which law

The law in force four calendar months before the first day of the window: **11 September 2026** for January 2027 and **12 March 2027** for July 2027.

The question format

Single best answer: five options and "only one correct answer". Closed book: know the time limits, the ranks and the tests.

The law moved in 2026

The Sentencing Act 2026 changed bail and suspended sentences from **22 March 2026**. Books printed before then are out of date on both (pages 08 and 16).

Important: what this guide covers

The adult case from arrest to appeal. The youth court, the Welsh language, modes of address, leading questions, good character and the general burden and standard of proof are outside it. Every deadline in one table: see our free guide **SQE1 Time Limits**.

Sources: SRA SQE1 Assessment Specification, applicable from 1 September 2026 (Criminal Law and Practice), as reproduced in this repo; SRA 2027 session map and blueprint; Sentencing Act 2026 ss 1, 2, 44 and 49. Accessed 28 October 2026.



The Case on One Page

ADULT DEFENDANT · TICK THE BOX WHEN YOU KNOW THE RULE AND WHO DECIDES

STAGE AND RULE	FIGURE	PAGE	DONE
At the police station			
Detention without charge From the relevant time: usually arrival at the first police station (PACE s 41)	24 hours	05	☐
Reviews of detention From when detention was first authorised; an inspector reviews (s 40)	6h, then every 9h	05	☐
Superintendent's extension Indictable offence only (s 42)	To 36 hours	05	☐
Warrants of further detention Magistrates, 36 hours a time (ss 43, 44)	96 hours at most	05	☐
Delay someone being told; legal advice Inspector (s 56); superintendent (s 58)	36 hours at most	05	☐
Pre-charge bail From the day after arrest (s 47ZB)	3 months	05	☐
Bail and first hearing			
Prosecution appeal against bail Written notice; hearing (Bail (Amendment) Act 1993 s 1)	2 hours; 48 hours	09	☐
Murder: bail decision Only a Crown Court judge can grant bail (CJA 2009 s 115)	48 hours	09	☐
Low-value criminal damage Value not over it: tried as if summary only (MCA s 22)	£5,000	11	☐
Low-value shoplifting Summary only, but an adult may elect (MCA s 22A); repeal pending	£200	11	☐
Magistrates' custody limit Summary; either way (Sentencing Act 2020 s 224)	6 or 12 months	11	☐
Before trial			
Defence statement Crown Court, compulsory; magistrates, voluntary (SI 2011/209)	28 or 14 days	12	☐
Custody time limits Magistrates' court; Crown Court to start of trial	56, 70, 182 days	12	☐
Sentence			
Guilty plea reduction First stage; after it; first day of trial (guideline)	1/3, 1/4, 1/10	16	☐
Suspended sentence Convicted on or after 22 March 2026 (s 277)	14 days to 3 years	16	☐
Presumption of suspension Unless exceptional circumstances or an exemption (s 277A)	12 months or less	16	☐
Appeals			
To the Crown Court From sentence, even for a conviction appeal (CrimPR r 34.2)	15 business days	18	☐
Case stated to the High Court Ends the right of appeal to the Crown Court (MCA s 111)	21 days	18	☐
To the Court of Appeal From conviction, or from sentence (CAA 1968 s 18)	28 days	18	☐

Summary only: each rule has conditions on the page shown. legislation.gov.uk, CrimPR 2025, Sentencing Council; checked 28 October 2026.

At the Police Station



On arrival the **custody officer** decides whether there is enough evidence to charge. If not, the suspect is released unless detention without charge is necessary “to secure or preserve evidence” or to obtain it by questioning (PACE s 37(1), (3)).

The custody clock	Limit	Rule
Basic limit (s 41)	24 hours	From the relevant time : arrival at the first police station after arrest; for someone who attended voluntarily, the time of arrest
Reviews (s 40)	6h , then 9h , then every 9h	Before charge, by an inspector not directly involved. The clock runs from when detention was first authorised
Superintendent (s 42)	Up to 36 hours	Three conditions: detention necessary for evidence; an indictable offence; investigation conducted diligently and expeditiously. Not before the second review
Magistrates (ss 43, 44)	36 hours a time; 96 in all	Warrant of further detention, then extensions; never beyond 96 hours from the relevant time

The suspect's rights	Delay needs	Conditions
Someone told of the arrest (s 56)	An inspector	Indictable offence; set grounds (harm to evidence or people, alerting suspects, hindering recovery of property); no later than 36 hours from the relevant time
Legal advice in private (s 58)	A superintendent	The same conditions; the suspect “must be permitted to consult a solicitor within 36 hours from the relevant time”

Free and independent

Code C tells every detainee that they may consult a solicitor at any time and that free independent legal advice is available (para 6.1).

Rest

In any 24 hours, a continuous **8 hours** free from questioning, travel or interruption, normally at night (Code C para 12.2).

Pre-charge bail

Released on bail before charge: **3 months** from the day after arrest in most cases (s 47ZB). Older books say 28 days.

Two clocks: the 24, 36 and 96 hours run from the **relevant time**; the reviews run from when the custody officer **first authorised** detention. Questions are built on the gap between them (worked on page 07).

Sources: PACE 1984 ss 37, 40 to 44, 47ZB, 56, 58; PACE Code C (2023) paras 6.1, 12.2. Accessed 28 October 2026.

The interview

An interview is “the questioning of a person regarding their involvement or suspected involvement in a criminal offence” which must be under caution (Code C para 11.1A). The caution (para 10.5):

“You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in Court. Anything you do say may be given in evidence.”

Silence: CJPOA 1994	When the court or jury may draw “proper” inferences	Condition
s 34	Failure to mention, when questioned under caution or on charge, a fact later relied on in the defence	A fact the suspect could reasonably have been expected to mention
s 35	Failure to give evidence at trial, or to answer a question without good cause	Not if guilt is not in issue, or the accused’s condition makes it undesirable
s 36	Failure to account for an object, substance or mark on the arrested person or where arrested	Only after the special warning (Code C 10.10, 10.11)
s 37	Failure to account for presence at a place at or about the time of the offence	Only after the special warning

No inference: no solicitor

At a police station, ss 34, 36 and 37 do not apply if the suspect “had not been allowed an opportunity to consult a solicitor” first (ss 34(2A), 36(4A), 37(3A)). Then the shorter caution in Code C Annex C is used.

Never enough alone

No one may have a case to answer or be convicted “solely on an inference” from silence (s 38(3)).

The solicitor’s role

“The solicitor’s only role in the police station is to protect and advance the legal rights of their client” (Note 6D). Removal only if the interviewer cannot properly put questions (para 6.9).

The appropriate adult

Needed for a juvenile (anyone who appears under 18) or a vulnerable person. A parent or guardian, a social worker, or another responsible adult; never a police officer, and never a solicitor acting as such (paras 1.5, 1.7, Note 1F).

Identification: Code D

An identification procedure must be held if an eye-witness has identified, or may be able to identify, the suspect and the suspect disputes it, unless it is not practicable or would serve no useful purpose (para 3.12). **Video identification** comes first; an identification parade or a group identification if more suitable; a **confrontation** is the last resort (paras 3.14, 3.16, 3.23). The suspect’s solicitor may attend a video identification only on request and with the identification officer’s agreement (Annex A para 9).

Sources: PACE Code C (2023) paras 1.5, 1.7, 6.9, 10.5, 10.10, 10.11, 11.1A, Note 1F, Note 6D, Annex C; PACE Code D (2023) paras 3.12, 3.14, 3.16, 3.23, Annex A para 9; CJPOA 1994 ss 34 to 38. Accessed 28 October 2026.

Worked Example: the Custody Clock

Invented facts. **Sam**, an adult, is arrested at home at **20:30 on Monday** for an offence triable either way. He arrives at Northtown police station at **21:15**. The custody officer authorises his detention at **21:30**. He asks for a solicitor.

Question	Answer	Why
What is the relevant time?	21:15 Monday	Arrival at the first police station, not the arrest at 20:30 (s 41(2)(d))
When does the 24 hours end?	21:15 Tuesday	24 hours from the relevant time (s 41(1))
When are the reviews due, at the latest?	03:30, 12:30, 21:30	6 hours after 21:30 , then 9 and 9, if each is held at the latest time (s 40(3))
When can a superintendent extend?	After the second review, by 21:15 Tuesday	Not before the second review, nor more than 24 hours after the relevant time (s 42(4))
To when?	09:15 Wednesday	36 hours from the relevant time, if the three s 42(1) conditions are met
Longest possible detention without charge?	21:15 Friday	96 hours, only with warrants from the magistrates (ss 43, 44)
Latest time he must be allowed his solicitor?	09:15 Wednesday	Delay needs a superintendent and the s 58(8) grounds; 36 hours at most

Change one fact

If	Then
The offence were summary only	No extension beyond 24 hours, and no delay to someone being told or to legal advice: ss 42, 56 and 58 need an indictable offence
Sam had gone to the station voluntarily at 10:00 and been arrested there at 11:00	The relevant time is 11:00 , the time of arrest (s 41(2)(c))
Sam were 16	He is a juvenile: an appropriate adult is needed, such as a parent or a social worker (Code C paras 1.5, 1.7)
The police want to interview him before his solicitor arrives	Only in the cases in Code C para 6.6. If he was not allowed to consult a solicitor, no s 34 inference can be drawn (s 34(2A))

Rest

Sam must have 8 continuous hours free from questioning in any 24 (Code C para 12.2). Plan interviews around it.

An eye-witness

If a witness says they can identify Sam and he disputes it, a Code D procedure must normally be held, starting with a video identification.

Our example, invented facts. Rules: PACE 1984 ss 40 to 44, 56, 58; Code C paras 1.5, 1.7, 6.6, 12.2; Code D paras 3.12, 3.14; CJPOA 1994 s 34(2A).



Bail

A defendant to whom s 4 applies “shall be granted bail except as provided in Schedule 1” (Bail Act 1976 s 4(1)). Bail can be refused only if the court is satisfied that an exception applies; the prosecution sets out its objections. For an imprisonable offence (Sch 1 Part I):

Exception	Bail need not be granted if
The three grounds (para 2)	“Substantial grounds for believing” the defendant would fail to surrender, commit an offence on bail, or interfere with witnesses or obstruct justice
Offence on bail (para 2A)	An indictable or either-way offence, apparently committed while on bail
Others	Risk of injury to an associated person (2ZA); own protection (3); not enough information yet (5); arrested under s 7 (6); murder (6ZA)

The factors (para 9)

Nature and seriousness; character, antecedents, associations and community ties; record on previous bail; strength of the evidence. **New from 22 March 2026:** that the defendant is pregnant, a primary carer, or a victim of domestic abuse.

No real prospect of custody (para 1A)

For an adult with “no real prospect” of a custodial sentence “other than a suspended sentence”, paras 2, 2A and 6 do not apply. **Amended 22 March 2026:** it now also applies after conviction.

Summary-only offences

An imprisonable summary-only offence falls under Part 1A, with narrower exceptions: for example, a previous failure to surrender and grounds to believe the defendant would fail again.

After conviction

Section 4 does not apply once the defendant is convicted, except where the case is adjourned for inquiries or a report (s 4(2), (4)).

Conditions (s 3(6)) are imposed only where necessary: to secure surrender, prevent offending or interference with witnesses, for the defendant’s own protection, or for reports. Breaking one is not an offence, but the defendant can be arrested (s 7).

Sources: Bail Act 1976 ss 3, 4, 7, Sch 1 Part I paras 1A, 2, 2ZA, 2A, 3, 5, 6, 6ZA, 9, as amended by the Sentencing Act 2026 s 44 (in force 22 March 2026, SI 2026/86). Accessed 28 October 2026.

Worked Example: a Bail Hearing

Invented facts. **Lee**, 34, is charged with an either-way offence and kept in custody for his first appearance. He has a job and lives with his partner. He has one previous conviction for failing to surrender, three years ago. The prosecution opposes bail.

Step	Prosecution	Defence
1. Is there a right to bail?	Yes: Lee is accused of an offence and before the court (s 4). The prosecution must show an exception in Sch 1 Part I.	
2. The ground	Substantial grounds for believing he would fail to surrender (para 2(1)(a))	One failure, three years ago; he attended every hearing since
3. The factors (para 9)	His bail record; the seriousness of the offence and the probable sentence; the strength of the evidence	Community ties: a job, a home, a partner. If he is the primary carer for someone, the new factor (ba) applies
4. Conditions (s 3(4), (6))	None would be enough	Offer residence, reporting to a police station, and a surety: each aimed at the risk of not surrendering
5. The custody test	If there were no real prospect of a custodial sentence other than a suspended one, para 2 would not apply at all (para 1A, as amended in 2026).	

What happens next

If	Then
Bail is refused	At the next hearing Lee may use any argument , old or new; after that the court need not hear arguments it has heard before (Sch 1 Part IIA). The court certifies that it heard full argument (s 5(6A))
Lee wants to go to the Crown Court	He applies there with the certificate of full argument (SCA 1981 s 81(1)(g), (1j)); it hears the application by the next business day after service (CrimPR r 14.8)
Bail is granted and the prosecution objects	Imprisonable offence, and bail was opposed: oral notice at the end of the hearing, before release; written notice within 2 hours ; the hearing starts within 48 hours , excluding weekends and public holidays (Bail (Amendment) Act 1993 s 1)
Lee breaks his curfew	Not an offence, but he may be arrested and brought before a justice within 24 hours (s 7(3), (4))
Lee does not turn up at court	An offence if without reasonable cause, which he must prove (s 6(1), (3)): up to 3 months on summary conviction, 12 months if committed to the Crown Court (s 6(7))

Murder

Only a Crown Court judge may grant bail, deciding within 48 hours from the day after the magistrates' hearing, excluding weekends and bank holidays (CJA 2009 s 115). Bail only if there is no significant risk of an offence causing injury (Sch 1 para 6ZA).

A previous homicide or rape

Charged with murder, manslaughter, rape and other listed offences, with a previous conviction for one (for manslaughter, only if a custodial sentence was imposed): bail only in exceptional circumstances (CJPOA 1994 s 25).

Our example, invented facts. Rules: Bail Act 1976 ss 3, 4, 5, 6, 7, Sch 1 Part I paras 1A, 2, 6ZA, 9, Part IIA; Senior Courts Act 1981 s 81; CrimPR 2025 r 14.8; Bail (Amendment) Act 1993 s 1; CJA 2009 s 115; CJPOA 1994 s 25.

4 First Hearing and Allocation



What happens at the first hearing in the magistrates' court depends on how the offence is classified (Interpretation Act 1978 Sch 1).

Class	Meaning	Where it goes
Summary only	Triable only summarily	Stays in the magistrates' court
Either way	Triable on indictment or summarily	Plea before venue, then allocation (page 11)
Indictable only	Triable only on indictment	Sent to the Crown Court "forthwith" (CDA 1998 s 51)

Trap: "indictable offence" includes either-way offences. So PACE ss 42, 56 and 58 and bail para 2A apply to them.

The representation order

Criminal legal aid needs two tests: **means** and the **interests of justice** (LASPO 2012 s 17(1)).

Interests of justice (s 17(2))

Likely loss of liberty or livelihood, or serious damage to reputation; a substantial question of law; inability to understand the proceedings or state one's case; tracing, interviewing or expert cross-examination of witnesses; the interests of another person.

Means

Passported if under 18 or on a listed benefit. Otherwise, in the magistrates' court, adjusted gross income of **£12,475** or less passes; **£22,325** or more fails; in between, disposable income up to **£3,398**. In the Crown Court: ineligible at disposable income of **£37,500** or more; contributions possible below it.

What goes with a sending

Sending an indictable-only offence takes with it any related either-way offence, and any related summary offence punishable with imprisonment or driving disqualification (CDA s 51(3), (11)).

Co-defendants

An adult charged jointly with a related either-way offence, appearing on the same occasion, is sent too (CDA s 51(5)).

At the first hearing the defence solicitor deals with the representation order, the plea or indication of plea, venue, and bail. A guilty plea indicated now earns the full one-third reduction (page 16).

Sources: Interpretation Act 1978 Sch 1; Crime and Disorder Act 1998 s 51; LASPO 2012 ss 16, 17; Criminal Legal Aid (Financial Resources) Regulations 2013 regs 18, 31; GOV.UK, Criminal legal aid: means testing. Accessed 28 October 2026.

Which Court? The Decision Tree

Our method, built on the Magistrates' Courts Act 1980 ss 17A to 22A and the Crime and Disorder Act 1998 ss 50A and 51. Adult defendant, one offence.



Run it: four defendants

Defendant	Stops at	Court
Ana is charged with an offence triable only on indictment, and a related either-way offence	1	Crown Court, both offences (s 51(1), (3))
Ben smashed a shop window worth £900; he denies it	4	Magistrates' court, as if summary only
Cal indicates a guilty plea to an either-way offence; the magistrates think 2 years is deserved	3	Convicted summarily, committed for sentence (s 14)
Dee denies an either-way offence; the magistrates accept jurisdiction; she wants a jury	6	Crown Court: she elects (s 20(9)(b))

Our examples. Section 22A repeal not in force on 28 October 2026: recheck for July 2027. Rules on the steps.

Case Management and Disclosure



After a not guilty plea, the court sets a timetable. The Criminal Procedure Rules 2025, in force since 6 October 2025, renumbered these rules.

Magistrates' court (r 3.16)

A **preparation for trial hearing**, unless a guilty plea is indicated: directions for an effective trial, on the Preparation for Effective Trial form. The court checks the defendant knows they get credit for a guilty plea.

Crown Court (r 3.21)

A **plea and trial preparation hearing** (PTPH): the defendant is arraigned and pleads, and the court gives directions, on the Better Case Management form.

Disclosure (CPIA 1996)	Rule
Prosecution: initial (s 3)	Material that "might reasonably be considered capable of undermining the case for the prosecution" or "of assisting the case for the accused", or a statement that there is none
Defence statement (ss 5, 6)	Compulsory in the Crown Court, within 28 days ; voluntary in the magistrates' court, within 14 days . Both run from the prosecution's initial disclosure
Contents (s 6A)	The nature of the defence, the facts in issue and why, the facts relied on, points of law; alibi witnesses' names, addresses and dates of birth
Prosecution: continuing (s 7A)	Keeps reviewing, "in particular, following the giving of a defence statement"
Defence application (s 8)	Only after a defence statement, with reasonable cause to believe material should have been disclosed
Faults (s 11)	No statement, a late one, inconsistent defences, a new defence at trial: comment and "proper" inferences, but no conviction solely on them

Custody time limit

Summary only: **56 days** to trial.
Either way: **70 days**, or **56** if summary trial is decided within 56 days.

In the Crown Court

182 days from sending to the start of the trial, less time already in custody in the magistrates' court.

Unused material

Material the prosecution holds but will not use is disclosed only if it meets the s 3 test.

Sources: CrimPR 2025 rr 3.16, 3.21; Criminal Practice Directions 2023 paras 5.1.2, 5.1.3; CPIA 1996 ss 3, 5, 6, 6A, 7A, 8, 11; SI 2011/209 reg 2; Prosecution of Offences (Custody Time Limits) Regulations 1987 regs 4, 5. Accessed 28 October 2026.

Evidence



Three tools exclude prosecution evidence. Learn which is mandatory and which is a discretion.

Tool	Test	Nature
PACE s 76(2)	A confession obtained by oppression , or in consequence of anything said or done likely to make it unreliable	Must exclude unless the prosecution proves beyond reasonable doubt it was not so obtained, "notwithstanding that it may be true"
PACE s 78	Admitting the evidence would have "such an adverse effect on the fairness of the proceedings" that it ought not to be admitted	A discretion ("may"); prosecution evidence only
CJA 2003 s 101(3)	The same fairness test, for bad character under gateways (d) and (g)	"Must not" admit, on the defendant's application

What a confession is

"Any statement wholly or partly adverse to the person who made it, whether made to a person in authority or not and whether made in words or otherwise" (s 82(1)). Oppression includes torture, inhuman or degrading treatment and the use or threat of violence (s 76(8)).

Breaches of the Codes

A breach of Code C (no caution, legal advice wrongly refused, no appropriate adult) can found an argument under s 76(2)(b) or s 78. The court decides on the facts of each case.

Identification: the Turnbull warning

Where the case depends "wholly or substantially" on disputed identification, the judge warns the jury of "the special need for caution", explains that "a mistaken witness can be a convincing one", and directs them to examine the circumstances: how long, at what distance, in what light, any obstruction, whether the witness knew the accused. If the quality is poor and nothing supports it, the judge withdraws the case.

Only against its maker

A confession is evidence against the person who made it (s 76(1)), not against a co-defendant.

Facts it led to

Excluding a confession does not exclude facts discovered as a result of it (s 76(4)(a)).

Silence at trial

A defendant who does not give evidence risks "proper" inferences under CJPOA s 35 (page 06).

Sources: PACE 1984 ss 76, 78, 82; CJA 2003 s 101(3); R v Turnbull [1977] QB 224, as quoted in Davies v R [2004] EWCA Crim 2521 (National Archives). Accessed 28 October 2026.

Hearsay

A statement not made in oral evidence is admissible to prove what it states "if, but only if" one of four routes applies (CJA 2003 s 114(1)): (a) a statute; (b) a preserved common law rule (s 118); (c) all parties agree; (d) the interests of justice, weighing the nine factors in s 114(2).

Main statutory routes	Requirements
Unavailable witness (s 116)	The maker is identified and is dead; unfit; outside the UK and attendance not reasonably practicable; cannot be found after reasonable steps; or, with leave, does not give evidence through fear
Business documents (s 117)	Created or received in the course of a trade, business, profession or office, from someone with personal knowledge
Res gestae (s 118)	A statement by someone "so emotionally overpowered by an event that the possibility of concoction or distortion can be disregarded"
Multiple hearsay (s 121)	Hearsay of hearsay needs s 117, 119 or 120, agreement, or a very high value in the interests of justice

Bad character

Evidence of misconduct, or a disposition towards it, other than the facts of the offence charged or misconduct in its investigation (s 98). The defendant's bad character is admissible only through seven gateways (s 101(1)):

Gate	When	Points to know
(a)	All parties agree	
(b)	The defendant adduces it, or asks a question to elicit it	
(c)	Important explanatory evidence	
(d)	Relevant to an important matter in issue between defendant and prosecution	Includes propensity to commit offences of the kind charged, or to be untruthful (s 103). Exclusion possible: s 101(3)
(e)	Substantial probative value on an important matter in issue with a co-defendant	Not the prosecution's gateway
(f)	To correct a false impression given by the defendant	
(g)	The defendant has attacked another person's character	Exclusion possible: s 101(3)

A **non-defendant's** bad character has three gateways (s 100(1)): important explanatory evidence; substantial probative value on a matter in issue of substantial importance; or all parties agree. Leave is needed unless they agree.

Sources: Criminal Justice Act 2003 ss 98, 100, 101, 103, 114, 116, 117, 118, 121. Accessed 28 October 2026.

The trial

Our summary of the order of a trial; the rules are in brackets.

#	Stage	What to know
1	Prosecution case	Witnesses are examined in chief, then cross-examined by the defence
2	Submission of no case to answer	At the end of the prosecution evidence: the court may acquit if the evidence is "insufficient for any reasonable court properly to convict", after hearing the prosecutor (CrimPR rr 24.3, 25.9)
3	Defence case	The defendant may give evidence, but only on their own application; silence can found a s 35 inference
4	Speeches, then verdict	In the Crown Court, the judge sums up and the jury decides; in the magistrates' court, the bench decides

The Galbraith test

Stop the case if there is no evidence the defendant committed the crime, or if the prosecution evidence, "taken at its highest, is such that a jury properly directed could not properly convict upon it". If its strength depends on a witness's reliability, it goes to the jury.

Witness	Competent?	Compellable?
Most people, any age	Yes, unless unable to understand questions and give answers that can be understood (YJCEA s 53)	Yes
The defendant	For the defence; never for the prosecution	No: called only on their own application (CEA 1898 s 1)
Defendant's spouse or civil partner	Yes	For the defendant, yes. For the prosecution only for a specified offence: violence to the spouse or a person under 16, or a sexual offence against a person under 16 (PACE s 80)

Special measures

For witnesses other than the accused who are under 18 or affected by incapacity (YJCEA s 16): screens, live link, evidence in private, no wigs or gowns, video-recorded evidence and cross-examination, an intermediary, aids to communication (ss 23 to 30). Fear or distress (s 17): ss 23 to 28 only (s 18).

Your duty to the court

Do not mislead the court (SRA Code para 1.4). Only put forward what is "properly arguable" (2.4). Do not waste the court's time (2.6). Draw its attention to relevant cases, statutes and procedural irregularities (2.7).

Sources: CrimPR 2025 rr 24.3, 25.9; R v Galbraith (1981) 73 Cr App R 124, as quoted in Esprit v R [2014] EWCA Crim 1918; YJCEA 1999 ss 16, 17, 23 to 30, 53; Criminal Evidence Act 1898 s 1; PACE 1984 s 80; CJPOA 1994 s 35; SRA Code of Conduct for Solicitors, RELs and RFLs paras 1.4, 2.4, 2.6, 2.7. Accessed 28 October 2026.

Sentencing and Appeals



Every court “must” follow relevant sentencing guidelines unless that would be contrary to the interests of justice (Sentencing Act 2020 s 59). Seriousness turns on **culpability** and **harm** (s 63). An offence on bail and relevant previous convictions are statutory aggravating factors (ss 64, 65).

Sentence	Rule
Custody	Only if the offence is “so serious that neither a fine alone nor a community sentence can be justified” (s 230). Then: is custody unavoidable, what is the shortest term, can it be suspended? (Imposition guideline)
Suspended sentence	Aged 21 or over: a term of 14 days to 3 years if convicted on or after 22 March 2026 (2 years before) (s 277); aged 18 to 20, up to the same maximum (s 264). Operational period 6 months to 2 years, or 3 years for a term over 2 years (s 288)
Presumption of suspension	Aged 21 or over (s 264A for ages 18 to 20), convicted on or after 22 March 2026, and a term of 12 months or less : the court must suspend unless there are exceptional circumstances or an exemption applies, such as an offence committed while on a community order or suspended sentence, or a breach of a court order (s 277A)
Community order	One or more requirements, such as unpaid work, curfew, exclusion or treatment (s 201)

Guilty plea

One-third at the first stage; at most one-quarter after it, falling to one-tenth on the first day of trial (guideline; s 73).

Several offences

Concurrent for one incident or a series; consecutive for unrelated incidents. The total must be “just and proportionate” (Totality guideline).

Magistrates

6 months for a summary offence, **12 months** for an either-way offence (s 224); more needed: committal for sentence (s 14).

Timing trap: community requirements

From 1 October 2026 the “rehabilitation activity requirement” became the “probation requirement”, and three prohibitions were added. That is after the January 2027 law date, but before the July 2027 one.

Sources: Sentencing Act 2020 ss 59, 63, 64, 65, 73, 201, 224, 230, 277, 277A, 288 and s 14, as amended by the Sentencing Act 2026 ss 1, 2 (in force 22 March 2026) and ss 13 to 16 (in force 1 October 2026); Sentencing Council guidelines: Imposition of community and custodial sentences; Reduction in sentence for a guilty plea; Totality. Accessed 28 October 2026.

Worked Example: the Sentence

Invented facts and figures. Jo, 30, is convicted in 2027 of an either-way offence. Working through the offence guideline, with a relevant previous conviction as an aggravating factor (s 65) and her personal mitigation, the court reaches **12 months' custody** before any reduction for plea.

Step 1: the reduction for her guilty plea

When Jo first indicated her plea	Reduction	Sentence
At the first hearing, at plea before venue	One-third	8 months
Later, but well before trial	At most one-quarter	9 months or more
On the first day of trial	At most one-tenth	About 10.8 months or more
At the first hearing, but her version of the facts is rejected at a Newton hearing	Normally halved: one-sixth	10 months
Found guilty after a trial	None	12 months

Step 2: must it be suspended?

Test	Jo, pleading guilty at the first hearing
Custody threshold passed and custody unavoidable?	Assume yes: the court has applied s 230 and the Imposition guideline
Term 12 months or less, adult, convicted on or after 22 March 2026?	Yes, 8 months: the presumption of suspension applies (s 277A)
An exemption, or exceptional circumstances?	None on these facts, so the court must suspend it, for an operational period of 6 months to 2 years (s 288)
Can the magistrates pass it?	Yes: 8 months is within their 12-month limit for an either-way offence (s 224)

Change one fact

If Jo committed the offence while on a suspended sentence, the presumption does not apply: the court decides with the Imposition guideline whether to suspend.

A second offence

Two offences in the same incident: ordinarily concurrent. Consecutive terms in the magistrates' court are capped at 12 months in total for either-way offences (MCA s 133(2)).

Not enough power

If, after plea, the magistrates think more than 12 months is needed, they commit Jo to the Crown Court for sentence (SA 2020 s 14).

Our example. The 12-month starting figure is invented for the arithmetic, not taken from any offence guideline. Rules: Sentencing Act 2020 ss 14, 65, 73, 224, 230, 277A, 288; MCA 1980 s 133; Sentencing Council guidelines: Reduction in sentence for a guilty plea (D1, D2, F2), Totality, Imposition.

Appeals

Route	Who and when	Powers and traps
Magistrates' court to the Crown Court (MCA s 108)	Pleaded guilty: sentence only. Otherwise conviction or sentence. No leave. Notice within 15 business days of sentence (CrimPR r 34.2)	The Crown Court may confirm, reverse or vary, and may award any punishment the magistrates could have, "whether more or less severe" (SCA 1981 s 48)
Case stated to the High Court (MCA s 111)	Any party, including the prosecution, on the ground that the decision is wrong in law or in excess of jurisdiction. Within 21 days of the decision	Applying ends the right of appeal to the Crown Court (s 111(4))
Crown Court to the Court of Appeal (CAA 1968)	Conviction (s 1) or sentence (s 9): with leave, or a trial judge's certificate. Notice within 28 days of conviction, or of sentence for a sentence appeal (s 18)	One ground: the conviction is unsafe ; it is quashed, and a retrial may be ordered (ss 2, 7). On a sentence appeal, not "more severely dealt with" (s 11(3))

The single judge

Leave is decided first by a single judge, who can also extend time. If refused, the appellant can renew to the full court (CAA 1968 s 31).

Different clocks

To the Crown Court, a conviction appeal runs from **sentence**. To the Court of Appeal, it runs from **conviction**.

The risk

In the Crown Court the sentence can go **up**, to the magistrates' maximum. In the Court of Appeal, on the appellant's own appeal, it cannot.

Choose the route

The client	Route
Convicted by the magistrates after a trial; disputes the facts found	Crown Court, against conviction (MCA s 108(1)(b))
Pleaded guilty in the magistrates' court; now wants the conviction overturned	No appeal against conviction under s 108: sentence only
Says the magistrates got the law wrong	Case stated (s 111), or the Crown Court; applying for a case stated ends the Crown Court route
Convicted in the Crown Court after a misdirection	Court of Appeal, with leave: is the conviction unsafe? (CAA 1968 ss 1, 2)

Newton hearings

A defendant who pleads guilty but disputes the prosecution's facts sets out their basis of plea in writing. If the dispute is material to sentence, the court decides it (CrimPR rr 24.11, 25.16), hearing evidence and "acting so to speak as his own jury" (R v Newton). If the defendant's version is rejected, the plea reduction "should normally be halved" (guilty plea guideline F2).

Sources: Magistrates' Courts Act 1980 ss 108, 111; Senior Courts Act 1981 s 48; CrimPR 2025 rr 24.11, 25.16, 34.2; Criminal Appeal Act 1968 ss 1, 2, 7, 9, 11, 18, 31; R v Newton 77 Cr App R 13, as quoted in R v Underwood [2004] EWCA Crim 2256; Sentencing Council, Reduction in sentence for a guilty plea, F2. Accessed 28 October 2026.

Exam Traps

Ten ways a plausible option can be wrong. Check every answer against them.

1. Two clocks

The 24, 36 and 96 hours run from the relevant time; reviews run from when detention was first authorised.

3. Indictable includes either way

Extensions and delays need an indictable offence, which includes either-way offences. A summary-only suspect gets neither.

5. The special warning

Needed before inferences under ss 36 and 37 (objects, marks, presence). It is not needed for s 34.

7. Breach is not absconding

Breaking a bail condition is not an offence: it leads to arrest. Failing to surrender without reasonable cause is.

9. The co-defendant's gateway

Gateway (e) is between co-defendants. The fairness exclusion in s 101(3) covers only (d) and (g).

2. The right rank

Reviews: inspector. Delay telling someone: inspector. Delay legal advice and extend to 36 hours: superintendent.

4. No solicitor, no inference

At the station, no s 34, 36 or 37 inference if the suspect was not allowed to consult a solicitor. And never a conviction on silence alone.

6. Bail after March 2026

If only a suspended sentence is realistic, paras 2, 2A and 6 do not apply, even after conviction.

8. Must or may?

Section 76(2) is mandatory and ignores whether the confession is true. Section 78 is a discretion.

10. Appeal clocks

Crown Court: 15 business days from sentence. Case stated: 21 days. Court of Appeal: 28 days from conviction (from sentence for a sentence appeal).

Before you choose, ask three questions

1

Where is the case: the police station, the first hearing, before trial, the trial, sentence or appeal?

2

Who decides: custody officer, inspector, superintendent, magistrates, judge or jury?

3

What kind of offence: summary only, either way or indictable only?

Test yourself

Cover the answers and give yourself a minute for each. All names, times and figures are invented; the defendant is an adult unless stated.

1 Kim is arrested at 09:00 and arrives at the police station at 09:40. Detention is authorised at 10:00. When is the first review due?

Answer. By **16:00**: 6 hours after detention was first authorised (s 40(3)).

2 In Q1, when do the 24 hours end?

Answer. At **09:40** the next day: 24 hours from arrival at the station (s 41).

3 An inspector delays a suspect's access to a solicitor for an either-way offence. Lawful?

Answer. No: delaying legal advice needs a superintendent (s 58(6)). An inspector can delay telling someone of the arrest (s 56).

4 A suspect stays silent after legal advice, then relies at trial on an alibi he did not mention. What may the jury do?

Answer. Draw such inferences as appear proper (CJPOA s 34), but not convict on that alone (s 38(3)).

5 A 15-year-old is to be interviewed. Can the duty solicitor act as the appropriate adult?

Answer. No: a solicitor acting as such may not be the appropriate adult (Code C Note 1F).

6 Magistrates refuse bail at the first hearing after full argument. At the next hearing, what may the defence argue?

Answer. Any argument, old or new (Sch 1 Part IIA para 2). After that, only new points need be heard.

7 The magistrates grant bail on a charge of an imprisonable offence; the CPS had opposed it. How does it appeal?

Answer. Oral notice before release, written notice within **2 hours**; hearing within 48 hours, excluding weekends and public holidays.

8 A defendant charged with criminal damage to a car worth £3,000 wants a jury. Can she have one?

Answer. No: the value is clearly not over £5,000, so the court proceeds as if the offence were summary only (MCA s 22).

9 A confession was obtained by threats. The prosecution says it is true. Admissible?

Answer. No, unless the prosecution proves beyond reasonable doubt it was not obtained by oppression; its truth is irrelevant (PACE s 76(2)).

10 The defendant attacks a prosecution witness's character. Which gateway may let in his own record, and can he ask to exclude it?

Answer. Gateway (**g**); he may apply to exclude it on fairness grounds (CJA 2003 s 101(3)).

11 Convicted in May 2027, an offender aged 25 would get 10 months after plea credit. No exemption applies. What must the court do?

Answer. Suspend the sentence, unless there are exceptional circumstances (SA 2020 s 277A).

12 Convicted after a summary trial on 1 March and sentenced on 29 March, he wants to appeal his conviction to the Crown Court. When does time run from?

Answer. From **sentence** on 29 March: 15 business days (CrimPR r 34.2(2)).

Your Criminal Practice Checklist

Tick a line only when you can explain it from blank paper, in order, in under two minutes.

Police station

- ☐ I can run the custody clock and name who authorises each step (pages 05 and 07)
- ☐ I know the caution, the four inference sections and when none can be drawn (page 06)
- ☐ I know who can be an appropriate adult and when an identification procedure is held (page 06)

Bail

- ☐ I can apply the exceptions, the factors and the 2026 changes (page 08)
- ☐ I know further applications, appeals both ways, absconding and breach (page 09)

First hearing and pre-trial

- ☐ I can classify an offence and apply the representation order tests (page 10)
- ☐ I can take a case through plea before venue, allocation and sending (page 11)
- ☐ I know the case management hearings, disclosure and custody time limits (page 12)

Evidence and trial

- ☐ I can apply ss 76 and 78, the Turnbull warning, hearsay and bad character (pages 13, 14)
- ☐ I know the trial stages, no case to answer, competence and special measures (page 15)

Sentence and appeal

- ☐ I can apply plea credit and the presumption of suspension (pages 16 and 17)
- ☐ I know each appeal route, its time limit and its powers (page 18)

On the day

- ☐ I ask the three questions before choosing an answer (page 19)
- ☐ I have scored twelve out of twelve on the self-test, under time (page 20)

Make the method automatic

STEP 1

Learn the map

The one-page table on page 04: cover the figure column and test yourself.

STEP 3

Work on paper

Rework the examples on pages 07, 09 and 17 and the tree on page 11 from blank paper.

STEP 5

Build exam pace

Full-length SQE1 mocks in the 2027 format (2 x 85 questions).

STEP 2

Place every question

Ask where the case is and who decides before you read the options.

STEP 4

Test yourself

The twelve questions on page 20, then the traps on page 19.

STEP 6

Questions?

Email support@fqps.co.uk and a person will answer.

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Criminal Practice rewards order. Each morning, cover the figure column on page 04 and say each time limit and who decides. Then rework one example from blank paper.



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