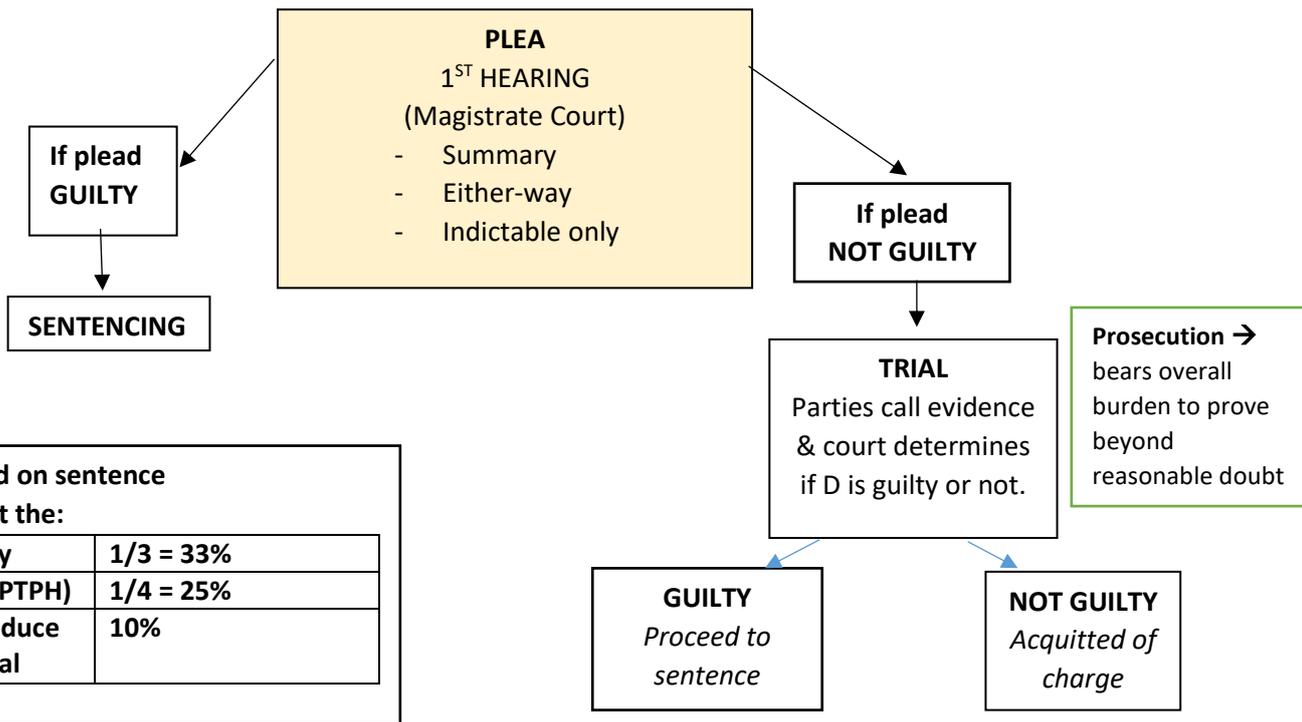
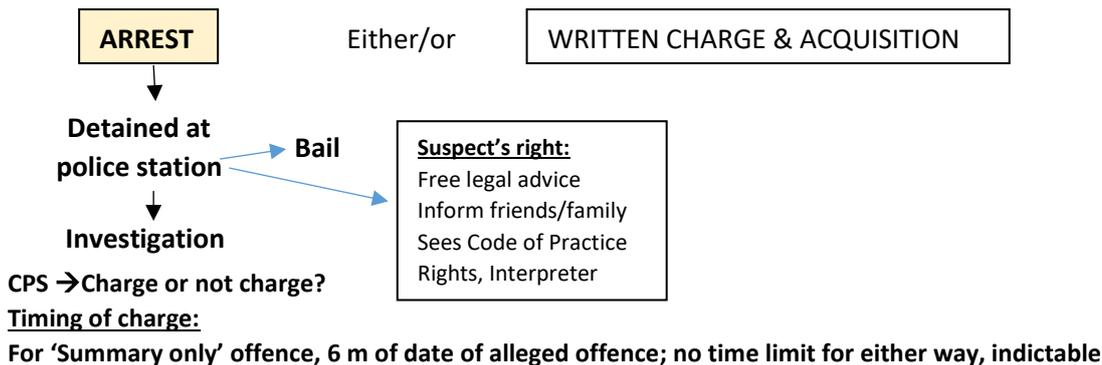


CRIMINAL PROCEDURAL RULE: OVERRIDING OBJECTIVE → deal with cases : **"JUSTLY"**

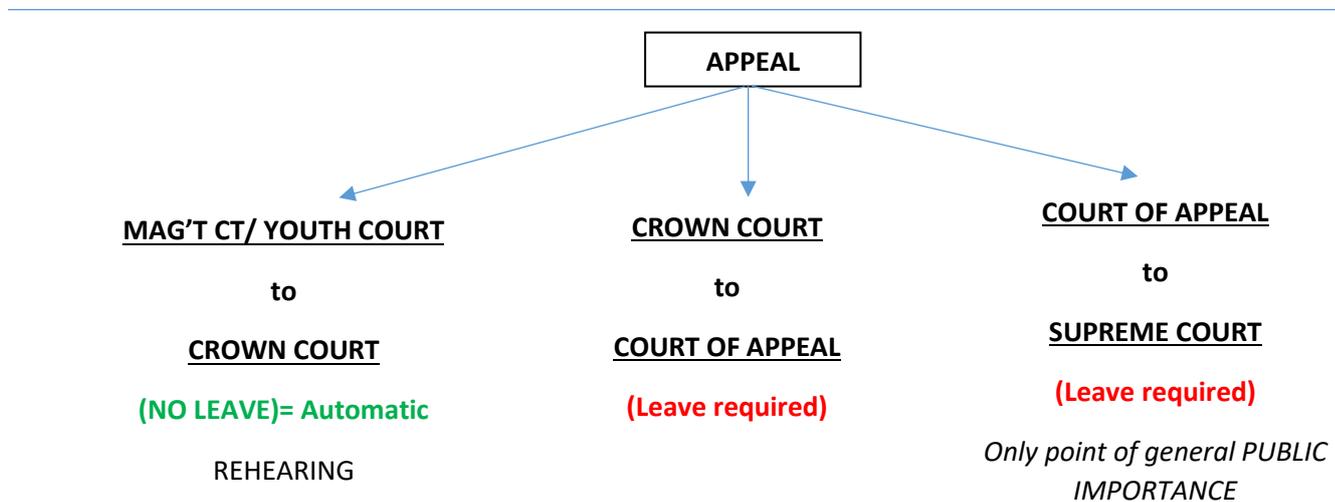
Must have **reasonable grounds** to suspect that an offence has been committed

Governed by PACE 1984



CREDIT afforded on sentence
If plead guilty at the:

1 ST opportunity	1/3 = 33%
Next hearing (PTPH)	1/4 = 25%
Continue to reduce until day of trial	10%



**SILENCE ON ARREST –
POSSESSION OF INCRIMINATING
OBJECTS/SUBSTANCES**

s.36

Accused must:

- ii. Have been arrested
- iii. Have object/substance/mark sufficiently proximate to their person (on the accused)
- iv. The object/substance/mark proximate to the accused at the time of arrest
- v. A constable **reasonably believes** that the object/substance/mark may be attributable to accused's participation in a specified crime.
- vi. The constable informs the accused of this belief and requests an explanation.
- vii. The constable informs the accused, **in ordinary language (special warning)**, of the consequences of failure or refusal to provide an explanation.

**SILENCE ON ARREST –
AT THE SCENE OF CRIME
s.37**

Only at or around the relevant time

Accused must:

- i. Have been arrested
- ii. Have been arrested **near the location of crime** (how near is a matter of fact & degree depending on circumstances of offence)
- iii. A constable reasonably believes that the accused's presence at the crime scene may be attributable to the accused's participation in a specified crime.
- iv. The constable informs the accused of this belief and requests an explanation.
- i. The constable informs the accused, **in ordinary language (special warning)**, of the consequences of failure or refusal to provide an explanation.

If accused fails or refuses to explain → may draw inferences as appear proper

cannot convict solely on this

STEP 1:

Determine which category of sentencing guidelines applies

STEP 2:

Adjust starting point up or down according to aggravating/mitigating factors

SERIOUSNESS & THRESHOLD**3 Possible Categories:**

- Greater culpability & greater harm
- Greater culpability and lesser harm, or greater harm and lesser culpability
- Lesser culpability and lesser harm

Parties will be invited to make submissions as to which category D falls into.

s.152 Criminal Justice Act 2003**Custodial Sentence Threshold**

“Court **must not** pass a custodial sentence unless it is of the opinion that the offence, or the combination of the offence, and one or more offences associated with it, was **so serious** that **neither a fine alone nor a community sentence can be justified** for the offence.’

Community Sentence Threshold

‘A court **must not** pass a **community sentence** unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was **so serious enough to warrant such a sentence.**’

AGGRAVATING FACTORS

(Adjust UPWARD)

- Offences committed whilst on bail or other offences
- Failure to respond to previous sentences
- Offence was racially or religiously aggravated
- Offences motivated by, or demonstrating, hostility to the victim based on his sexual orientation
- Offences motivated by, or demonstrating, hostility based on victim’s disability
- Previous conviction
- Planning of an offence
- An intention to commit more serious harm than actually resulted from offence
- Offenders operating in groups or gangs
- ‘Professional’ offending
- Commission of offence for financial gain
- High level of profit from offence
- An attempt to conceal or dispose of evidence
- Failure to respond to warnings or concerns expressed by others about offender’s behaviour
- Offence committed whilst on bail
- Deliberate targeting of vulnerable victim

MITIGATING FACTORS

(Adjust DOWWARD)

- A greater degree of provocation than normally expected
- Mental illness or disability
- Youth or age, where it affects the responsibility of individual defendant
- The fact that the offender played only a minor role in the offence
- Any personal mitigation

DANGEROUSNESS

“Specified Offence”

Schedule 15 CJA 2003

- Specified
- Max sentence: Life or determinate sentence of 10 years or more

Definition of “Dangerousness”

s.229 CJA 2003

(a.) a person has been convicted of a **specified offence**

(b.) whether there is a **significant risk to members of the public of serious harm occasioned by the commission by him of further such offences.**

PREVALENCE

Court must not increase sentence due to prevalence of such an offence *unless* it has evidence from local Criminal Justice Board or “Community Impact Statement”