



**Isle of Man
Government**

Reiltys Ellan Vannin



Isle of Man Criminal Justice System

A CODE OF PRACTICE FOR VICTIMS AND WITNESSES OF SERIOUS CRIME

Contents

	Page
Contents	2
Foreword.....	3
Introduction	4
Executive Summary	6
Your expectations of the Criminal Justice System	8
How to use this Code of Practice:	10
Who are the agencies referred to in this Code of Practice?	11
Section 1 - Reporting a crime and the investigation.....	13
Section 2 - The Courts: First and further appearances	19
The Attorney General's Chambers:.....	29
Section 3 - Sentencing.....	31
Custody	32
Section 4 - Release from custody.....	38
What support will I have?	40
Section 5 - Domestic Abuse	42
Section 6 - Restorative Justice	43
Section 7 – Isle of Man Criminal Injuries Compensation Scheme.....	44
Section 8 - Complaints	45
Section 9 - Frequently Asked Questions	46
Agency Contact List:.....	53
Glossary of Terms.....	56
Victim Personal Statement	58

Foreword

If you are a victim of a crime or a witness to a crime, it is important that you know what information and support is available to you. All victims and witnesses of crime should receive the appropriate support to cope with the impact of the crime. Victims and witnesses and their close relatives should be treated in a respectful and sensitive manner and without discrimination of any kind.

Many victims and witnesses and their families may not have had any exposure to the Criminal Justice System on the Isle of Man. As such they may have a limited understanding of the procedures and this in itself may add to anxiety about what is going to happen.

This Code of Practice provides information that is intended to guide you through the criminal justice process. You will also find answers to many of the questions you have and also details of charities, volunteers and other agencies which are there to support and help you.

This Code of Practice forms part of the Isle of Man Criminal Justice Strategy, and the Criminal Justice Board strongly supports the on-going work of the Criminal Justice Strategy and its core objective in providing effective services to victims.

We hope that this Code of Practice assists those who have been the victim of a crime, or witness to a crime, and who wish to understand more about the process of the Criminal Justice System in the Isle of Man.

The information in this code has been written by contributors from all agencies that make up the Criminal Justice System, including charitable and voluntary organisations who we work in partnership with to provide essential services to victims and witnesses. We are particularly grateful to those individuals that make up the *Victims' Forum*, and who have given their time and shared their experience in order to assist with the development of the Code.

Introduction

This Code of Practice provides information about the criminal justice system on the Isle of Man. It explains how the organisations that make up the criminal justice system all work to meet the needs and expectations of those affected by crime and identifies what support is presently available and where it can be accessed. It is hoped that this Code of Practice will provide some reassurance to victims and witnesses.

For the purposes of this Code a victim is defined as:

Someone who has suffered harm which can be physical, sexual, mental, emotional or economic and caused by a criminal offence.

Victims and witnesses of criminal offences, including bereaved close relatives should have access to information to the range of support services available.

This Code sets out the services a Victim or Witness of crime or their families should expect from the organisations within the Criminal Justice System. Each section is designed to guide you through the various stages of the criminal justice process.

In this Code of Practice we have tried to answer all of the questions you might have. We know that everyone's case is different and that everyone will have different needs. If you have any questions that are not answered in this Code of Practice then please contact directly the Victim Support & Witness Service, or you can explore our website for relevant contact numbers.

Victim Support & Witness Service phone - 01624 679950

Criminal Justice Service website - <https://www.gov.im/about-the-government/departments/home-affairs/criminal-justice-service/>

The criminal justice system is made up of a number of organisations. The system has five main parts

1) Legislation. Tynwald



2) Enforcement. Investigation, Detection and Arrest. The Isle of Man Constabulary



3) Prosecution. Attorney General's Chambers



4) Court Process. The Isle of Man Courts



5) Public Protection & Rehabilitation. The Isle of Man Prison and Probation service



Executive Summary

For many years, the Isle of Man Criminal Justice Agencies and Voluntary Agencies have worked closely with victims of serious crime. However, with each agency being responsible for their own individual statutory/local priorities and commitments, a document to collectively map the process and expectations for victims in receipt of these services had been left wanting.

‘The Code of Practice for Victims and Witnesses of Serious Crime’ is a pioneering document which attempts to redress the void. It aims to provide current information about the key agencies, stages and entitlements involved throughout your ‘journey’.

The Criminal Justice Board are committed to ensuring ‘Victims’ have a voice and are heard within the criminal justice process.

Baroness Newlove - Victims’ Commissioner in the UK describes within her 2017/18 Annual Report that she welcomes the fact that treatment of victims has moved to the heart of political debate in Britain, and that the public want more to be done to support victims.

She goes on to describe the following;

“My overriding priority is to ensure that all victims receive the high-quality services that they deserve, so that they can be supported through the criminal justice system and helped to cope and recover.

There is a prevailing view that support received by victims is falling short and that we as a society must do better in supporting fellow citizens whose lives have been devastated by crime. We should be providing victims with full legal rights including;

- *Right to be informed*
- *Right to be heard and*
- *The right to challenge”*

She calls on the Government to commit to providing victims with a seamless journey through the criminal justice system, with victims of the worst crimes being given their own independent victims advocate.

The Isle of Man Criminal Justice Board resonate with Baroness Newlove’s overarching goals and wish to offer our full commitment to improving the quality of service offered to Victims of serious crime.

‘The Code of Practice for Victims and Witnesses of Serious Crime’ is a step in the right direction with each of the sections containing relevant information designed to assist your understanding of the process from beginning to end.

Section 1 - provides a comprehensive overview of the stages and people who may become involved with you once you have reported a serious crime. Also included in this section are details of the Victims and Witness Support service commonly known as ‘Victim Support’.

Section 2 - details the structure and layout of the Criminal Courts. It describes the people you may encounter and what they do. An image of one of the court rooms is there to help you understand the layout and a detailed explanation of what to expect from the time you walk through the doors to sitting in Court and then leaving.

The role of the Attorney General’s Chambers is also captured within this section, in particular the Prosecutions Division. Not only is there a clear and comprehensive guide included, but also some information hyperlinks should you wish to explore this aspect in more detail.

Section 3 - describes the type of sentences available to the Courts and what each one entails with more detail in relation to custody and community sentences.

Section 4 - explains what happens when an offender is released from prison. What it means when an offender is ‘on licence’ and the key stages once an offender is released into the community.

Again, included in this section is the Victim Support service and what they can do to assist you.

Section 5 - focuses upon Domestic Abuse cases and which services are there to help you.

Section 6 - provides an overview of Restorative Justice and how this can be accessed by you if you wish to engage in that process.

Section 7 - provides a brief overview of the Criminal Injuries Compensation Scheme.

Section 8 - provides details of how to make a complaint, whether this be about one particular service or about the process as a whole.

Section 9 - offers to answer the most common questions asked by victims and witnesses of crime. Although it is not possible to include everything, there is always the opportunity to ask any of the individual agencies listed should you have any questions not included in the list.

Your expectations of the Criminal Justice System

If you are a victim or witness of a crime in the Isle of Man you have the right to expect that all of the agencies in the criminal justice system accept and respect your rights as a victim, as set out below:

- Clear information on what to expect from the Criminal Justice System;
- To be treated with respect at all times;
- To receive acknowledgement from the Constabulary that you have reported a crime;
- To have the crime which you reported to the Constabulary investigated;
- To have access to, and be referred to organisations providing services supporting victims of crime and witnesses, including having support at Court;
- To receive from the Constabulary, information and explanations about the progress of the case, including if the suspect is to be prosecuted or not or given an out of court disposal (such as a caution);
- To be informed of the date, time and location of any court hearings by the Isle of Man Constabulary;
- To be given the opportunity under 'special measures' to request you give your evidence over a 'live link' system, or from behind a screen in the court room (but such measures are permitted by the Court only in very limited circumstances);
- To be made aware of the outcome of the defendant's appearance in court by the Victim Support & Witness Service;
- To attend court hearings in the public gallery (unless you are a witness¹);
- To be given the opportunity (in more serious cases²), to explain how the crime has affected you before the sentence is passed, usually via a [VPS](#) ^{Appendix 1} (Victim Personal Statement); To be able to make a complaint (about the process of handling your case, not about the case outcome).

Where a defendant is found guilty you can expect:

- To receive an explanation of the sentence passed through liaison with the Prison and Probation service;
- The ability to make a statement to the Parole Committee before a decision is made on early release on licence, known as a Victim Personal Statement (VPS);

¹ NB: Even if you are a victim, for the purpose of attending court you will be called a 'witness'.

² Serious refers to violent and sexual crimes

- To be given the opportunity to provide information to the Prosecution Advocates in order for them to consider making an application to the court for compensation in respect of specific, identifiable loss (such as the cost of damage caused to property) you may have suffered;
- To have your options to apply to the Criminal Injuries Compensation Scheme (CICS) explained to you by the Victim Support and Witness Service;
- To receive information about Restorative Justice from the Prison and Probation Service and/or the Isle of Man Constabulary.

How to use this Code of Practice:

For ease of reference, this Code of Practice has been divided into different sections.

(Sections 1 - 4 correspond to different stages of the criminal justice process)

Each of the following sections outlines what happens and identifies the support that is available to victims and witnesses.

Section 1

Reporting a crime and the investigation

Section 2

The Courts: First appearance and subsequent appearances

Section 3

Sentencing

Section 4

Release from custody

Section 5

Relates specifically to domestic abuse and highlights some additional support available for Victims of domestic abuse

Section 6

Information about restorative justice processes in the Isle of Man

Section 7

Information about compensation

Section 8

Complaints

Section 9

Frequently asked questions by Victims of crime

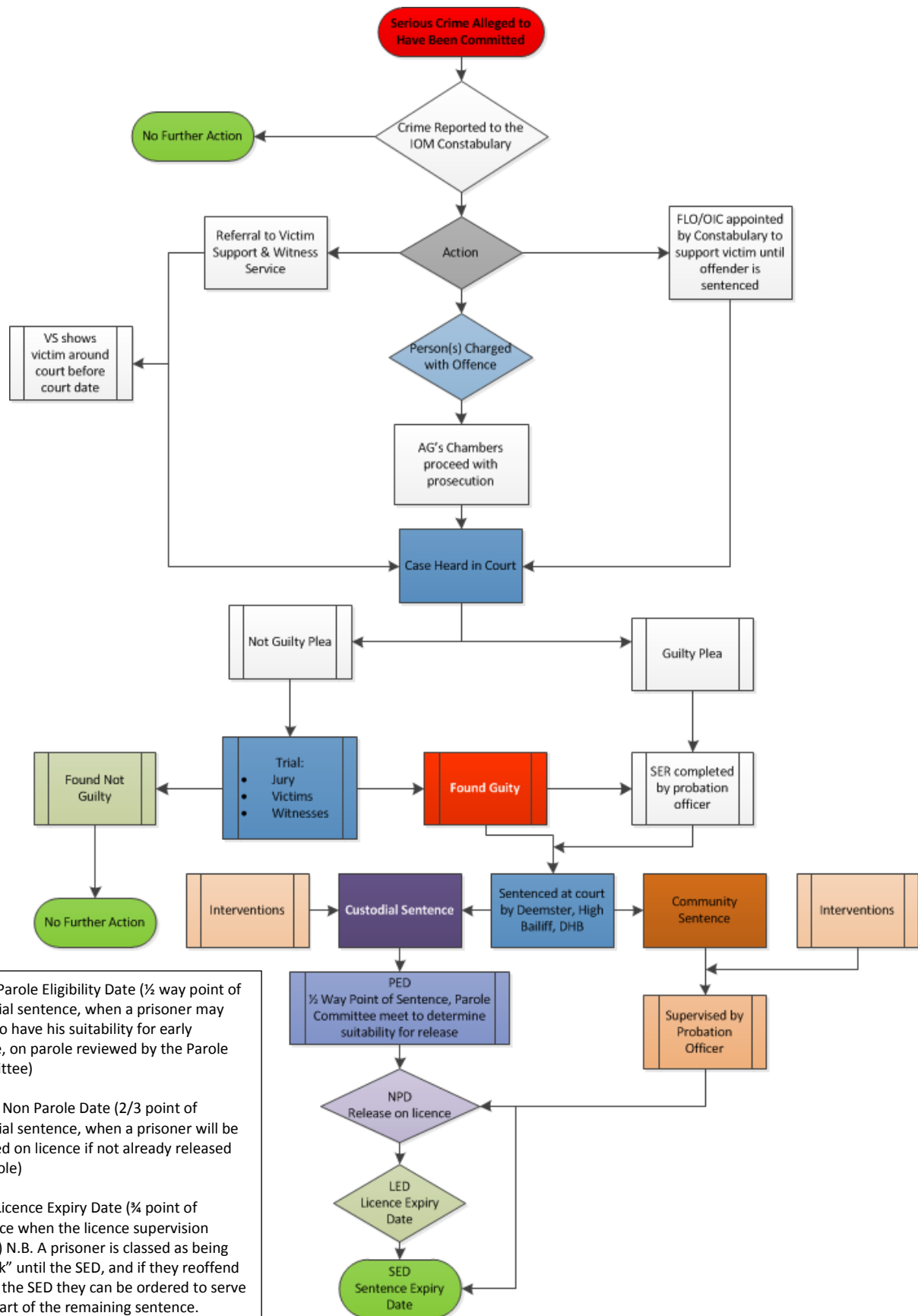
Agency Contact List: At the end of this Code of Practice you will find a contact list of the various agencies, services and initiatives who can offer you support and provide information to you throughout your engagement with the criminal justice system.

Glossary: There is a glossary at the end of this Code of Practice which explains some of the key words used throughout.

Who are the agencies referred to in this Code of Practice?

- The Criminal Justice Board
- The Isle of Man Constabulary
- The Attorney General's Chambers
- IOM Courts and Tribunals Service in the General Registry
- The Isle of Man Prison and Probation Service
- The Legal Aid Service
- The Parole Committee
- The Youth Justice Service
- Victim Support & Witness Service (Victim Support)
- Criminal Injuries Compensation Scheme

Flowchart plotting the 'Journey' through the Criminal Justice System



Section 1 - Reporting a crime and the investigation.

Reporting a crime

If you report a crime to the Isle of Man Constabulary you may be asked to sign a written statement so that they have a formal basis upon which to start an investigation.

If you are a witness to a crime and Police Officers attend the scene you may be asked, depending on the incident, to give a statement at the scene explaining what you saw and/or heard. You will be asked to give your contact details so that you can be contacted at a later date to provide any further information that you may have and, if necessary, make an additional statement.

The Isle of Man Constabulary appreciate the sensitivity of all personal statements and will ensure that you can give yours in a private place. Whilst they will always try to make arrangements convenient for you, sometimes they will be under pressure to carry out an investigation within a set time period. Your understanding and assistance is appreciated.

A message from the Isle of Man Constabulary:

Isle of Man Constabulary works in partnership with Crimestoppers - if you have information about a crime committed within the Jurisdiction you can pass this on anonymously by calling Crimestoppers.

Crimestoppers hotline: 0800 555 111

Referral to Victim Support & Witness Service

If you are the victim of a crime and you report the crime to the Constabulary, or you are approached by the Constabulary to give a statement, you can opt to have your details passed onto the Victim Support & Witness Service who can provide support. Referrals can either be made by you or on your behalf by the Police.

If you are the witness to a crime and you provide a statement to the Constabulary you can seek support from the Victim Support & Witness Service when it is known that you are required to attend Court.

A message from the Isle of Man Constabulary:

Witnesses (who may also be the victim of the crime) are crucial to the process of bringing offenders to justice, and always have our support.

We are unable to help people whom we cannot contact therefore it is essential that you provide us with your contact details and update us if they change.

Domestic or sexual abuse

If the crime relates to a domestic abuse or a sexual offence, your express consent must be given before your details can be forwarded to Victim Support & Witness Service. Depending on the nature of the allegation, you may be referred to the Isle of Man Women's Refuge or to the Prison and Probation service Independent Domestic Abuse Advisor

Giving a statement

When you give a statement to the Constabulary you must give an accurate account of what you witnessed of the incident. When you sign your statement it will be explained that you may be required at some later date to attend court to give the evidence contained in your statement. This is likely to arise where the defendant either:

- (1) pleads not guilty, or
- (2) pleads guilty but denies an important element of the offence that could have a significant impact on the sentence.

When you give your statement to the Constabulary you will be asked to provide personal information such as your address and telephone number. Personal information is recorded on a different part of the statement form to the evidence you give.

This means that in most cases no personal details, other than your name, will be seen by others (including the defendant and his or her advocate) without your permission

If your address or telephone number does change at any point you must inform the Constabulary so that they can keep you informed about what is happening.

Once your statement has been taken, you will be advised not to discuss it with other witnesses or victims. This is important because any such discussions can impact on the case and may affect the decision of the court.

Appropriate Adults

Children³ and vulnerable adults⁴ should always have an appropriate adult with them when they make a statement to the police. This is to protect their interests and to ensure they fully understand what is happening and how their evidence may be used in court proceedings. An appropriate adult can be a member of their family or someone from Social Care. The investigating officer can make arrangements for an appropriate adult to be present for support.

The Investigation

The Isle of Man Constabulary will investigate every reported crime. The level of their investigation is dependent on a series of factors. The following factors are taken into account in the early stages of an investigation:

- lines of enquiry, such as possible witnesses to the event;
- whether a suspect is identified by a witness or is likely to be identified through lines of enquiry;

³ Child/children refers to anyone under the age of 18 years

⁴ Anyone 18 years of age or over who by reason of mental or other disability, age or illness, and who is, or may be unable to take care of, or protect themselves from significant harm or exploitation

- the seriousness of the offence;
- possible forensic opportunities - such as fingerprint / DNA evidence; and
- whether the crime may be part of a series of crimes - for example 2 or more reports of vandalism within the same area and within a short period of time may be considered to be 'series crime'.

The Constabulary keep the complainant updated about the enquiries being made, including the outcome of their investigation when the enquiries come to an end.

The Constabulary also assess all reports of crime or problems using the **THRIVE** approach which looks at the Threat /Harm/Risk/Investigation/Vulnerabilities/Engagement in respect of each incident.

Possible outcomes from an investigation

There is no time limit on how long an investigation may take, and you will be kept informed throughout the process by the investigating Police Officer or by the Victim Support & Witness Service if you have requested their involvement.

There are several possible outcomes to an investigation, including:

- An individual is charged with the crime:

If there is sufficient evidence against a person and they are identified by the Isle of Man Constabulary and it is in the public interest they may be charged with the crime. Once charged they will appear in court. In some cases they will be kept in custody to appear in court on either the same day or the next available court day.

Alternatively, they will be released on bail (post-charge) to appear in court at a later date.

- A suspect is arrested but released without charge pending further enquiries:

In some cases the investigation cannot be concluded within a short period of time and, even though a person has been arrested, more enquiries need to be made. In those circumstances, the person arrested may be released on bail (pre-charge) with a requirement to return to the police station on a specified date. The Isle of Man Constabulary is not able to impose conditions during this period.

- The case is referred to the Attorney General's Chambers for advice:

Sometimes when the case is complicated, or there are difficult issues of law, the advice of the Attorney General's Chambers will be sought before a decision is made about whether to charge a person. This process can be quite lengthy and so it is important that you update the Constabulary or the Victim Support & Witness Service, whenever your contact details change so that they can notify you of the outcome once it is known.

- The person receives a caution:

Where the person admits guilt and the crime is at the lower level of seriousness, the Constabulary or the Attorney General's Chambers may administer a caution.

- There is no further action:

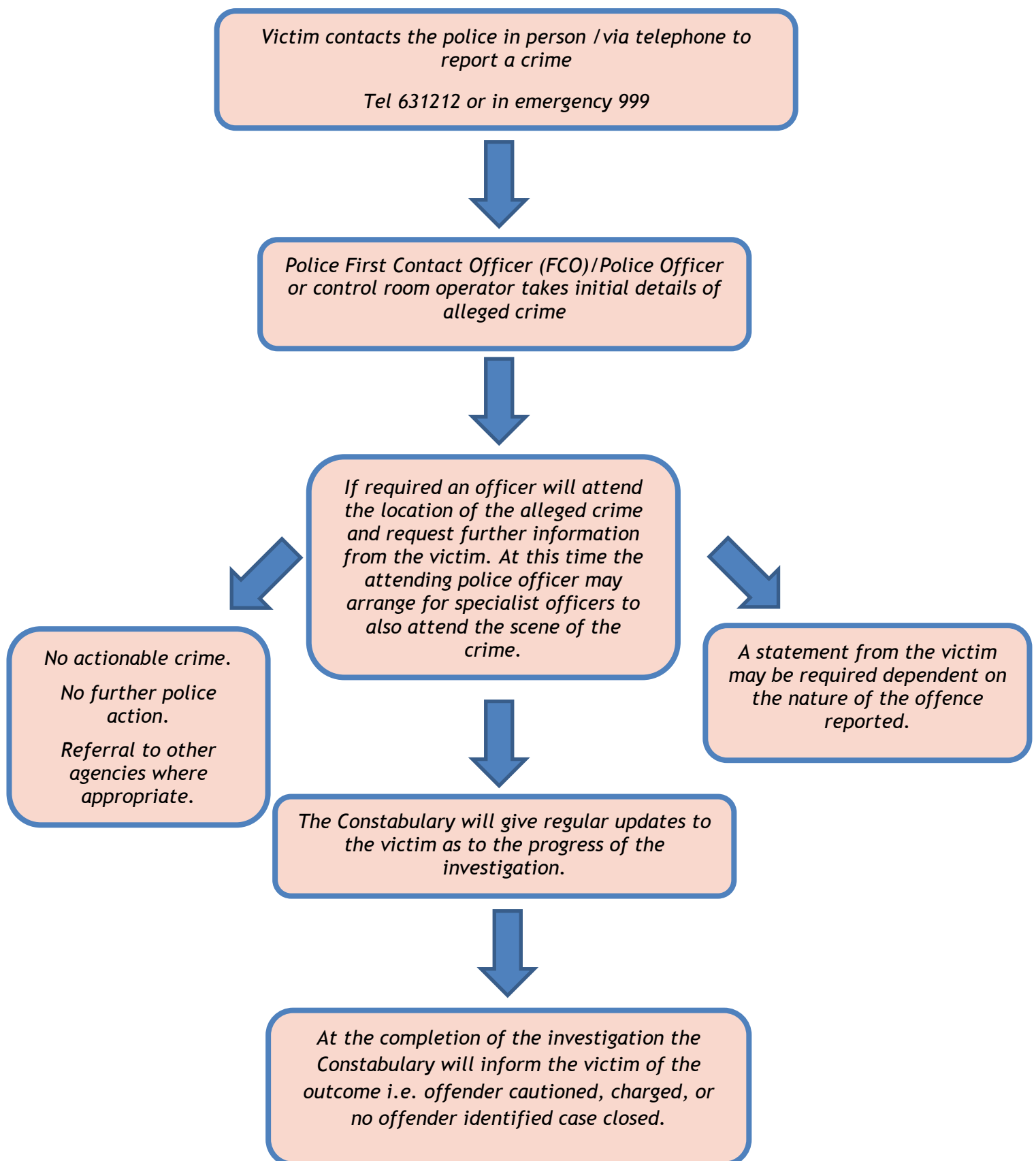
It may be that there is no further action. This could be for a number of reasons. For example, it may be that a suspect is not identified at the end of an investigation, or there may not be sufficient evidence overall to charge someone with an offence. Occasionally, it may not be deemed to be in the public interest to prosecute. If the decision to take no further action is made, you will be informed by the Isle of Man Constabulary or the Prosecutions Division of the Attorney General's Chambers. Decisions not to proceed with a case are never taken lightly.

Crimes Involving Children

- The case is referred to the Children and Families Social Care service:

Those under the age of 18 who are accused of committing a crime are treated differently from adults. The Isle of Man Constabulary will use diversion schemes where possible. However, certain crimes, particularly those of a violent or sexual nature will be referred to the Attorney General's Chambers. A decision will be made whether the child should be prosecuted or dealt with in some other way, for example, the Constabulary may choose to impose a caution if appropriate.

Diagram 1: Reporting a Crime



Victim Support & Witness Service

The Victim Support & Witness Service provides emotional support, information and practical help to people who have been affected by crime, and to their families and friends, whether or not the crime has been reported and regardless of when it happened. The service is free and confidential and independent of the Constabulary and other agencies.

Staff and volunteers are trained to help victims and witnesses and their families cope with the effects of crime. They listen while people talk through their feelings and reactions and try to help find the way that best suits them to overcome their anxieties. Practical help may include accompaniment on visits to the police station, to the doctor or help completing forms.

The Service contacts people by letter, telephone or in person according to the particular sensitivity of the situation and can arrange for trained personnel to see people in their homes, at the Victim Support & Witness Service Office or at another place that is safe and convenient for the person being supported.

The Witness Service

The Witness Service is run by Victim Support & Witness Service and offers a free, confidential service giving information and support to victims and witnesses and their families and friends before, during and after attending the court. The Service also supports and works alongside other people who may accompany a witness, such as a parent, guardian, carer or social worker.

The Service supports both prosecution and defence witnesses. It does not support those who are accused of a crime ('the defendant'), nor does it discuss evidence, give legal advice or provide views on sentencing.

The Witness Service reserves a quiet room within the Court Complex where service volunteers wait with witnesses and can also accompany the witnesses into the courtroom if requested. The Service can also provide information about the outcome of a case where appropriate.

Section 2 - The Courts: First and further appearances

The Criminal Courts

The Criminal Courts are where cases are heard and justice is administered. The Courthouse can be found in Douglas, close to the central Government offices at the junction of Bucks Road and Circular Road. Courts 1 to 5 are in the main building and courts 6, 7 and 8 are located in the adjacent Registries building.

The footpath separating the two buildings is called Deemsters Walk. There are a number of signs in nearby streets which indicate where the courthouse and Registries buildings are located.

Visitors should note that parking in the local area is limited but the courthouse is only a short 5 to 10 minute walk from the nearby Chester Street and Shaw's Brow 'pay and display' car-parks.



Wheelchair access

Wheelchair friendly facilities are currently limited to certain courtrooms within the courthouse and the Registries building. If you require wheelchair access please make the court aware in advance or ask the Victim Support & Witness Service to do so on your behalf.

In late 2010, both sets of main entrance doors to the Registries building were replaced with automatic ones to facilitate easy access for all users of the building.

Lifts

The courthouse and the Registries building both have lifts from the entrance levels to all other floors. These lifts can accommodate wheelchairs.

Disabled toilets

Both buildings have disabled toilet facilities, with two situated on the ground floor of the Registries building (by courts 6, 7 and 8) and one on the mezzanine floor of the courthouse.

Entering the Courthouse

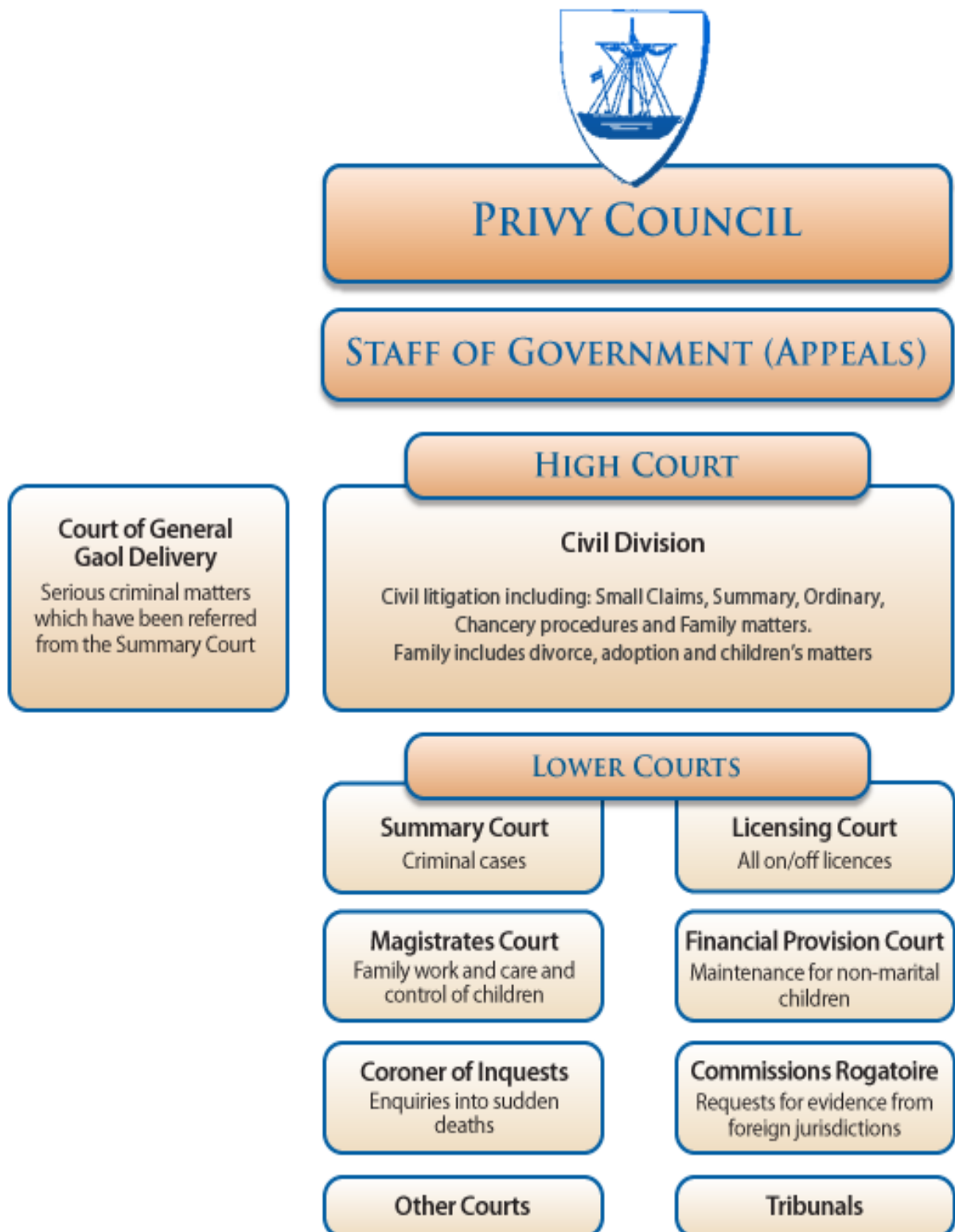
To enter the courthouse, visitors must first go through security screening. This screening has been in place for a number of years and is similar to that of the UK and some other jurisdictions.

The aim of security screening is:-

- to ensure a safe place for visitors to carry out their business;
- to ensure the smooth running of the courts; and
- to prevent prohibited items from being brought into the court premises, such as:-
 - alcohol
 - bladed instruments
 - cameras / other recording devices
 - other prohibited items



Full Court Structure (this includes all courts)



At Court

Most criminal cases are dealt with by the High Bailiff, Deputy High Bailiff or Justices of the Peace (Magistrates), either in a court of summary jurisdiction dealing with adults (the summary courts), or for offenders under 17 years of age, in a juvenile court. The juvenile courts are usually dealt with by Magistrates.

Every case must first go to the summary courts. A case may remain at and be dealt with by the summary courts. More serious offences are committed to the Court of General Gaol Delivery for consideration. It may be that there are a number of court sittings before a case can be concluded.

In a number of cases, and where the defendant is found guilty, the Isle of Man Prison and Probation Service will be asked by the Court to submit a Probation Report (sometimes called a Social Enquiry report) to assist the Court by providing information about the offender and deciding what sentence is appropriate. Preparation of these reports can take up to 6 weeks and so it may be that a case is adjourned until such time as the Probation Report is ready.

Which court?

For some offences the Summary Court (being presided over by either the Bailiffs or the Magistrates) can, according to its judgement, direct the case to be heard either in the Court of Summary Jurisdiction or Court of General Gaol Delivery. Alternatively, the prosecutor or the defence advocate can make submissions regarding the appropriate venue. Generally, a case will be sent to the Court of General Gaol Delivery because the sentencing powers of the Summary Court are considered to be insufficient to deal with the defendant in the event that he or she is found guilty.

Cases dealt with by the Magistrates' Court

Justices of the Peace sit as a panel of (usually) 3, supported by a legally qualified Legal Officer. This is commonly referred to as a Magistrates Court

Magistrates have regular courts dealing with applications relating to:-

- the care and control of children;
- the enforcement of maintenance;
- hearings/trials/sentencing in criminal matters;
- requests for warrants for arrest and search; and
- the signing of summonses.

There are also specialist courts and committees which magistrates are elected to join from time to time such as the Licensing Court and the Prison and Probation Liaison Committee.

Justices of the Peace are not paid for carrying out their duties.

Cases dealt with by the Courts of Summary Jurisdiction

The High Bailiff (HB) and Deputy High Bailiff (DHB) sit alone. Sentencing powers are shared with the Magistrates' Court who together with the HB and DHB sits under the umbrella of the courts of Summary Jurisdiction.

The work involves, amongst other things:-

- deciding on applications for bail;

- remands in custody; and
- whether a defendant is guilty or not and passing sentence as appropriate.

For a single criminal offence committed by an adult, the Summary Courts sentencing powers include:-

- conditional or absolute discharge;
- the imposition of fines;
- community service orders;
- probation orders; or
- suspended sentences or custody up to the summary limit (a maximum of 12 months).

For offences which require the imposition of a greater sentence than that available in the courts of Summary Jurisdiction the cases begin in the Summary Courts but are then committed to the Court of General Gaol Delivery for trial or sentence.

Cases dealt with by the Court of General Gaol Delivery

The Court of General Gaol Delivery deals with criminal matters of a more serious nature than those in courts of Summary Jurisdiction. All cases in this court are dealt with by a Deemster.

Cases are committed from the summary courts to the Court of General Gaol Delivery for either trial or for sentence, in cases where the sentencing powers of the summary courts are insufficient or it is otherwise appropriate for the case to be heard before the Court of General Gaol Delivery.

All criminal trials in the Court of General Gaol Delivery are trials by jury and have either a seven or twelve member jury. In this Court, the role of the Deemster is to deal with legal issues and to ensure that the trial is conducted properly and fairly. It is only the Jury who will determine whether the defendant is guilty or not guilty.

Certain cases can only be heard in the Court of General Gaol Delivery. These are known as “Information Only offences”. This Court has greater sentencing powers than the summary courts and so “Information Only offences” are those offences that are serious enough for it to be appropriate to have the opportunity for a more severe sentence to be passed in the event that the defendant is found guilty.

If you will be needed at Court as a witness, you will be told by the Isle of Man Constabulary. They will let you know whether you will have to give evidence, what the court date is and which court you will be attending. If you have any special access requirements you should let the Constabulary know at this point. Otherwise you can contact the Isle of Man Courts of Justice or the Victim Support & Witness Service.

Entering a plea before Venue

Some cases may be heard in either the Summary Court or the Court of General Gaol Delivery. In such cases, the plea before Venue process takes place in the Summary Court before committal. It is here that the defendant will indicate a plea of either guilty or not guilty. If the plea is “not guilty” there will be a date set for committal or trial sometime in the future.

If the plea is “guilty” then, the Summary Court decides what the sentence should be or whether the case should be committed to the Court of General Gaol Delivery for sentence. It is likely that the Isle of Man Prison and Probation Service will be asked to submit a Social Enquiry Report (SER) to the Courts, prior to sentencing in order to provide the court with additional appropriate information in order to make a decision.

The Isle of Man Constabulary will notify you about how the defendant has pleaded once this has been indicated in court.

Remand into custody

At the defendant's first appearance in court, and on each subsequent appearance, consideration will be given as to whether the defendant should be remanded into custody or be granted bail, with or without conditions.

A defendant can be remanded into custody when the court is satisfied that there are substantial grounds for believing that the defendant would do any of the following things:

- commit further offences if released on bail;
- abscond;
- interfere with witnesses or otherwise obstruct the course of justice.

In addition, defendants can be remanded in custody for their own protection. If the defendant fails to return to court as directed then a warrant for their arrest can be issued.

Giving evidence in a trial

If the defendant pleads "not guilty", whether in the Court of Summary Jurisdiction or the Court of General Gaol Delivery, then the case will be adjourned for a trial to take place. If your evidence is required, you may not have to go to court if the contents of your statement are accepted by the Defence and are not in dispute. In such cases your evidence will simply be read to the court by the prosecutor.

If you are required to attend court to give your evidence, the Constabulary will inform you of the trial date in advance. There may, however, be a number of other witnesses involved who will also need to be taken into consideration. It is vital that you provide the Isle of Man Constabulary with any dates of pre-planned holidays or any other dates when you would not be able to attend at court so that a trial date can be fixed when you are available.

A message from the Isle of Man Constabulary:

If at any time you are contacted by the defendant or someone acting on their behalf (even if you are a witness for the defence), you must call the Isle of Man Constabulary immediately. If you are concerned about your own or someone else's safety during this time you should call the Isle of Man Constabulary so that the information can be dealt with appropriately.

Image of one of the court rooms



What support can I access if I have to give my evidence in court?

Giving evidence in court can be a daunting experience. You may therefore want to ask questions about the process and the people involved. You may even visit the court room beforehand so that you are familiar with its lay-out. The Victim Support and Witness Service or the Isle of Man Constabulary can arrange this for you and answer any questions you may have.

On the day of Court

As a witness you may not be present in the court room until you are called to give evidence. Evidence is given on oath or affirmation⁵. After you have given evidence you are generally free to leave the Court Complex, but in some exceptional cases you may be asked to stay. You may, however, wish to sit in the public seating area to watch the rest of the trial. Once you have given your evidence **you must not discuss it with anyone until the case is finished as this could incur legal penalties or even the collapse of the trial.** Once the trial has ended and a sentence has been handed down, you can approach the Victim Support & Witness Service to talk over the case. However, the Service staff cannot discuss any of the particulars of the case, nor can they discuss sentencing or provide any legal advice.

If the Victim Support & Witness Service has been involved in the case they can inform you of the outcome of the case.

- The Victim Support & Witness Service staff will meet you if you request them to do so.
- The prosecutor or defence advocate (depending on whether you are a prosecution or defence witness) will introduce themselves to you so that you are familiar with some faces in the court room.
- The Victim Support & Witness Service often reserves a room within the Court building where you can wait with a volunteer.
- You will have opportunity to read through your statement before entering the court room.

⁵ You do not have to swear on a holy book, you can make an affirmation instead.

- A volunteer from the Victim Support & Witness Service can accompany you into the court room if you wish, so that you do not feel on your own whilst giving evidence in the Court-room
- In some (limited) cases, the court may give permission for you to give evidence from behind a screen or by means of a live-link (i.e. a television link between the court room and another place). If this applies in the case in which you are involved, an application to the Court will have been made by the Prosecutor in advance of the trial and you will be informed of the outcome ahead of attending Court.

Who will be in the courtroom?

In the courtroom (depending on the type of Court) there will be;

- the Deemster; or
- the High Bailiff ;or
- the Deputy High Bailiff; or
- the Magistrates ;
- the Jury (if a Jury trial);
- the defendant;
- witnesses;
- members of the general public sitting in the public gallery;
- advocates;
- press (newspapers and radio);
- court clerk;
- court usher;
- although not the case at the actual trial, at preliminary hearings there may be advocates involved in matters other than yours (if the matter is being heard in the fixed Summary Courts or a pleas court of the Court of General Gaol Delivery); and
- dock officer.

An example of a court room's layout is provided on **page 28** of this Code of Practice and show where the following people, who may be in the courtroom, sit:

The Judge of Appeal

The Judge of Appeal is currently Jeremy Storey QC.

The Deemster

The Deemster presides over cases heard at the Court of General Gaol. The Deemster decides legal and procedural issues and ensures the fairness of the proceedings (to both the Prosecution and Defence).

The Jury (Court of General Gaol Delivery only)

In a criminal trial there are usually seven Jury members sitting at any one time, except in the event of a juror becoming ill when, by agreement, a trial may continue with a jury of six members. The jury decide the facts of a case and provide a verdict in respect of the defendant i.e. 'Guilty' or 'Not Guilty'. For a murder trial, or trials for other very serious offences, there will be a jury of twelve persons. The Deemster will direct the Jury on points of law.

The Courts of Summary Jurisdiction

The High Bailiff/Deputy High Bailiff of the Courts of Summary Jurisdiction sits alone in criminal cases and determines issues of fact and law as well as the sentence in the event of a conviction. The Summary Court may also be presided over by a bench of Magistrates who are assisted by a qualified legal advisor.

Court Usher

The Court Usher's duties are to help the clerk and the court maintain the smooth running of a court hearing. The main responsibility is to ensure that all people involved in the hearing are in the right place at the right time.

Other individuals who may also be present in court include:

Prosecutor & Defence Advocate

- The prosecutor and a defence advocate will also be present and they may have assistants with them.

Isle of Man Prison and Probation Service

- Representatives from the Isle of Man Prison and Probation Service will often be asked to write reports and may be asked questions by the judiciary, the prosecutor or the defence advocate.

Local media

- Representatives from the local media will often report on crimes committed and sentences received.

Prisoner Custody Officer

- There will be a Prisoner Custody Officer present who will take custody of the defendant should he or she be remanded into custody at the prison or given a sentence of imprisonment.

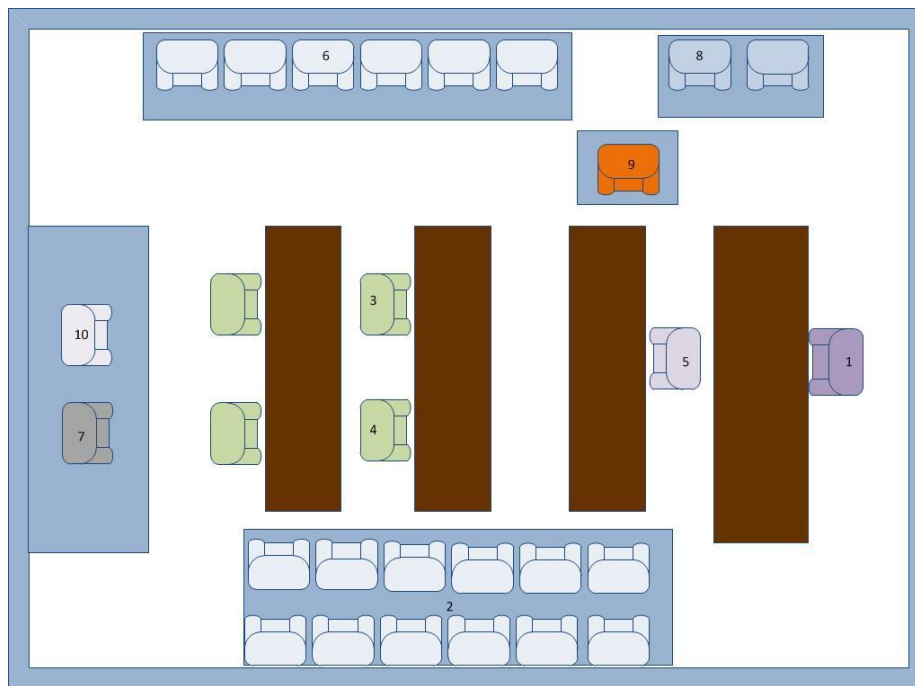
Members of the public

- Members of the public (including family and friends of both the victim/witness and defendant) can usually be in attendance in the public gallery, along with practicing or student advocates. Victims /witnesses may also sit in the public gallery but only after they have given their evidence to the Court. Members of the public may be excluded from the court for some hearings, e.g. juvenile courts.

Other witnesses

- Other witnesses may also be required to attend to give evidence either for the prosecution or the defence. Witnesses will usually wait in the witness waiting area until called, or within a reserved room until nearer the time they are required to be called.

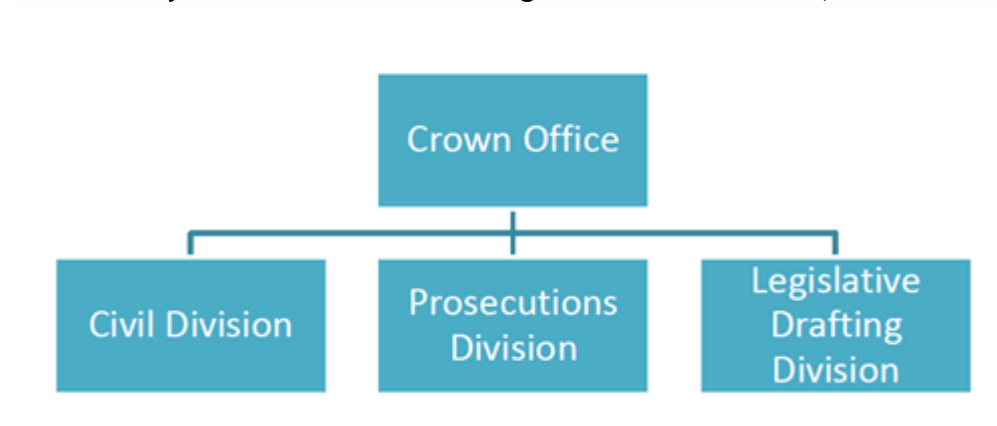
Diagram 2: The Courts: an example of a typical Court Room Plan



- 1. Judiciary (Deemster/High Bailiff/Deputy High Bailiff/Magistrates)**
- 2. Jury (Court of General Gaol Delivery)**
- 3. Prosecutions Advocate**
- 4. Defence Advocate**
- 5. Clerk**
- 6. Public**
- 7. Defendant**
- 8. Press**
- 9. Witness**
- 10. Dock Officer**

The Attorney General's Chambers:

The Attorney General's Chambers is organised into four areas;



The Prosecutions Division of the Attorney General's Chambers

The Prosecutions Division deals with all criminal cases brought before the courts.

HM Attorney General has responsibility for all criminal prosecutions in the Isle of Man. On behalf of HM Attorney General, the Prosecutions Division, under the guidance of the Director of Prosecutions, prosecutes all criminal offences on the Island.

The Prosecutions Code is issued by Her Majesty's Attorney General for the Isle of Man.

The Prosecutions Code can be accessed at:

[IOM Prosecutors Code](#)

<https://www.gov.im/media/1359465/prosecution-code.pdf>

Summary offences, which comprise less serious offences, are heard in the Summary Courts. More serious offences are heard in the Court of General Gaol Delivery.

The Prosecutions Division:

- advises the police, Government Departments, Statutory Boards and Offices on cases for possible prosecution
- Reviews cases submitted by the police for prosecution and determines whether criminal charges should be brought, by application of the prosecution test (which any case must satisfy not only at the time of charge but throughout the prosecution)
- Determines the charge in the more serious and complex cases
- Prepares cases for court with the assistance of the Constabulary
- Presents those cases at court
- Provides advice on appeals (both in defending Defence appeals and, where appropriate, in lodging appeals on behalf of law enforcement authorities).

Part of the court process involves the cross-examination of witnesses to test their evidence. It is up to the court to make sure the trial is conducted in a fair and just manner, taking into account representations from the defence advocate and the prosecution advocate. The prosecutor will always treat victims who are witnesses in court respectfully, and where appropriate, will seek the court's intervention where cross-examination is considered to be too aggressive or inappropriate.

In addition, the Attorney General's Chambers has developed specific protocols in relation to the prosecution of perpetrators of Sexual Offences and Domestic Abuse because these type of offences are regarded as particularly serious by both the HM Attorney General and the Isle of Man Constabulary. Links to both documents are below;

<https://www.gov.im/media/1355816/domestic-abuse-protocols-and-guidelines-for-prosecutors-and-iom-constabulary.pdf>

<https://www.gov.im/media/1355818/sexual-offences-protocols-and-guidelines-for-prosecutors-and-iom-constabulary.pdf>

If you are a victim of a sexual offence, the Constabulary will ensure that you have the opportunity to make a Victim Personal Statement (VPS) to enable the victim to describe the effect the offence has had. A VPS will only be taken with the consent of the victim.

Sometimes it is not possible to pursue the prosecution of a case. Reasons for this may include; complainant retracting their allegation, complainant withdrawing their support, reduction in original charge(s). In all of these instances, the Director of Prosecutions has to be consulted prior to any of the above decisions being made.

HM Attorney General may refer cases, on a point of law or if a sentence is unduly lenient, to the Appeal Division for determination. The Prosecutions Division, on behalf of HM Attorney General, presents legal argument to assist the Appeal Division in reaching its opinion.

NB: If you are dissatisfied with the police or the Attorney General's decision not to prosecute you are entitled to make a complaint and can do so via the respective departments' complaints procedure (See Section 8).

Section 3 - Sentencing

If the defendant is found guilty after a trial, or they have pleaded guilty to an offence, they will be sentenced by the Court. There are a number of sentences which can be handed down by the courts. The following pages explain the different sentences currently available to the courts.

How are sentences worked out?

For each offence there are a range of sentences available. The law sets out the maximum sentence available for each offence. The Sentencing Court carefully considers the facts of the offence, the circumstances of the offender, the seriousness of the crime, the consequences of the offence to the victim and to society, the aggravating factors and the mitigating circumstances relating to the offender.

The court also hears arguments from the Prosecution and Defence as to the appropriate sentence and takes into consideration the recommendations regarding sentence contained in the Social Enquiry Report prepared by the Probation Service.

Section 9(1) of the Custody Act 1995 states that, “no court shall impose custody on a person unless it is of the opinion that no other method of dealing with him is appropriate.”

A sentence of custody cannot therefore be imposed unless the Sentencing Court is satisfied that no other method of dealing with the offender is appropriate.

Moreover section 9(2) of the Custody Act 1995 provides that “no court shall impose custody on a child or young person unless the court is of the opinion that the circumstances are so exceptional that it would be inappropriate to deal with him by any other method.”

Sentences available to the Courts include:

- Absolute Discharge
- Conditional Discharge
- A Fine
- Compensation
- Attendance Centre Order
- A Community Service Order
- A Probation Order
- A Combination Order
- A Suspended Sentence
- A Suspended Sentence Supervision Order
- Custody

(NB: a full description of each of the above can be found on pages 32, 34 -37)

Additionally, the following can be added to a sentence;

- Sexual Offences Prevention Order
- Sexual Offences Registration
- Confiscation Order
- Exclusion Order

Sometimes the sentencing Court will combine different sentences and it may also order that the Defendant pay the costs (or a contribution towards it) of the prosecution.

(Totality - If sentencing an offender for more than one offence or where the offender is already serving a sentence, the Sentencing Court must consider whether the total sentence is just and proportionate to the offending behaviour. The Sentencing Court must

look at the totality of the offending behaviour and ask itself what is the appropriate sentence for all the offences. The Sentencing Court must ensure that the totality of any consecutive sentences imposed is not excessive.)

Appealing against the conviction or sentence

Convicted offenders may be able to appeal their conviction or sentence. They must have a basis on which to appeal such as new evidence being available, or the fact that an important court procedure was not followed properly.

The Prosecution may, “by reference,” also appeal a decision of the court.

Appeals against convictions must be made within a specified period of time, usually 42 days. Someone who has been convicted in either the Summary Court or the Court of General Gaol can appeal to the Staff of Government (Appeal Division) and thereafter to the Judicial Committee of the Privy Council.

Witnesses are not generally required to attend Appeal Hearings. At present it is the Attorney General’s Chambers or Victim Support & Witness Service who may inform you of the date and outcome of an appeal.

Custody

There are a number of different types of prison sentence available to a court. When an offender is released from prison will depend on the type of sentence. The majority of prison sentences passed in court will include time to be served in prison and time to serve in the community on licence. This means that a prisoner will not usually spend the whole of their sentence in prison.

What Happens In Prison?

The Prison and Probation service vision is:

“To protect the public and reduce re-offending by enabling offenders to reform their lives”

If a defendant is found guilty and given a custodial sentence, he or she will be transferred to the Isle of Man Prison, unless a successful application for bail, pending appeal, is made. He or she is then known as a “convicted offender”.

If the convicted offender has been held on remand (i.e. denied bail) between court hearings, the sentence will usually - but not always - be considered to have started from the date when he or she was first taken into custody on remand.

While an offender is in prison they will be offered the chance to participate in a journey toward rehabilitation and community reintegration, known as resettlement. A safe, decent and rehabilitative prison is the essential foundation for empowering prisoners to turn their lives around.

They will be challenged about any pro-criminal attitudes and behaviours and encouraged to recognise how their victim/s may have been affected by their behaviour. They will be expected to take responsibility for the direct and indirect harm they have caused. All these things have been shown by research to reduce the risk of reoffending in the future.

A programme of education and vocational training are provided to assist them towards a useful and law-abiding life when they are released and they will be offered other opportunities to rehabilitate.

A prisoner may be asked to attend groups or courses to help them with any behaviour problems they may have, such as alcohol or drug abuse, gambling, financial pressures, depression, aggression or lack of temper control, or sexual matters. These are designed to help prisoners, particularly those serving longer sentences, prepare for release.

Some prisoners will have demonstrated a positive change in their attitude and behaviours and may be considered for the Resettlement Day Release scheme (RDR). They may be able to go out to training or work from the prison and return when they have finished. This is carefully monitored and managed. Working for the local community is intended to give prisoners the chance to build self-confidence and at the same time develop a sense of social responsibility. The work can include local environment projects; work with the elderly or people with disabilities, sports activities and fund-raising.

Resettlement Overnight Release (ROR) may also be a consideration for some prisoners who have demonstrated a positive and progressive approach to rehabilitation. ROR is very carefully considered and not every prisoner will be entitled or considered suitable for this. The aim of ROR is to further encourage family reintegration, employability and rehabilitation whilst supporting a reduction in reoffending.

If an offender is allowed to go into the community on RDR or ROR as described above, the case, you will be informed prior to any temporary release to ensure you are aware that the offender is in the community.

A prisoner who has received a sentence of 12 months or more will be released on 'Licence' at a date which is before the end of the custodial part of their sentence. They will serve the remaining part of their sentence within the community where they will be supervised by an Isle of Man Prison and Probation Service Probation Officer who will ensure that the offender abides by any conditions set out within their licence.

Some prisoners who are serving long sentences (over four years) will become eligible for 'early release' at the half way stage of their sentence. This is known as PAROLE and is an offenders' 'privilege' and not a 'right'. The prisoner would have to have demonstrated a commitment to rehabilitation and evidence that they can become a trusted member of the community, that both their risk of harm and risk of re-offending is reduced.

A message from the Isle of Man Prison and Probation Service:

*Our aim is to work with offenders and reduce the risk of reoffending.
There are incentives for those motivated to engage with our programmes and interventions.
Everything we do is designed to prevent the next victim.*

The Parole Committee

The Parole Committee is an independent body that works with its criminal justice partners to protect the public by risk assessing certain prisoners to decide whether they can be safely managed in the community if they were to be released from custody.

They can make directions about the release of certain types of offender, namely long-term detainees, those with extended sentences and those who have received a Life sentence.

A Suspended Sentence

The courts can decide to sentence someone to custody but suspend the period of imprisonment (for up to 2 years). This means that instead of going directly to prison the offender will remain in the community.

The offender **will not** be supervised by a Probation officer with this sentence.

Should the offender commit a further criminal offence punishable by custody during the period of suspension he is liable to serving the term of imprisonment originally imposed (in addition to any sentence for the subsequent offence).

Probation Supervision - What does probation mean for an offender?

Offenders who are not sent to prison may instead receive a Suspended Sentence Supervision Order or receive a 'Community Sentence'. This could be a Probation Order, Combination Order, Community Service Order or an Attendance Centre Order (further description is below).

Offenders can be supervised by a Probation Officer or Probation Service Officer either during their period on 'licence' as described earlier or, if they are sentenced to a Community Order.

When sentencing an offender to a Community Order the court can also add additional requirements/conditions that the offender must abide by, such as;

- Attending regular meetings with a drug or alcohol worker,
- Undertaking drug and alcohol testing or
- Undergoing a course to address specific offending behaviour (e.g. anger management).
- Staying in an approved accommodation
- staying away from the area where a crime was committed

Probation Officers will initially meet the offender on a weekly basis within the first few months of their sentence. During these meetings, the Probation Officer will undertake a risk assessment and help identify, with the offender, future sentence plan objectives that aim to help them reduce their risk of re-offending and causing further harm. Offenders will be encouraged to consider their offence, the circumstances which led to their offence being committed and the impact the offence may have had on any possible victims.

Offenders might be asked how they think they could make reparation (repair harm that has been caused) to the victims and community. They will be expected to focus on changing their behaviour to avoid future offending.

Offenders who miss an appointment without good reason will be issued with a formal warning letter. Should they continue to miss appointments they may be taken back to court (this is called "a breach"). This is because they have breached the conditions that the court said that they must abide by when the Judge made the original decision to allow

the offender to remain in the community instead of going to prison. If an offender does not go along with the requirements of a Community Order immediate action will be taken by probation staff and they may be returned to court. In some cases offenders may be re-sentenced and sent to prison.

A Suspended Sentence Supervision Order

This means an offender will be supervised by a Probation Officer of the Isle of Man Prison and Probation Service, throughout the length of the suspended sentence. This enables the staff to identify any perceived risks the offender may present as well as supporting them and may prevent them from re-offending. In addition to this, if the offender commits a further offence punishable by custody they can receive a custodial sentence for the original offence.

A Probation Order

A Probation order means an offender will be supervised by the Isle of Man Prison and Probation Service throughout the length of the sentence. This enables the staff to identify any perceived risks the offender may present as well as supporting them and may prevent them from re-offending. If an offender does not comply with the requirements of the Order, immediate action will be taken by probation staff and the offender may be returned to court. In some cases offenders may be re-sentenced and sent to prison.

A Combination Order

This means an offender will be supervised by the Isle of Man Prison and Probation Service and has two elements to their Order. One element being community service and the other being Probation supervision. This enables the staff to identify any perceived risks the offender may present as well as supporting them and may prevent them from re-offending as well as completing unpaid work hours as direct reparation to benefit the local community.

If an offender does not comply with the requirements of the Order, immediate action will be taken by probation staff and they may be returned to court. In some cases offenders may be re-sentenced and sent to prison.

A Community Service Order

A Community Service Order can be imposed as an alternative to being detained in prison. It is for the Judge to determine when this is appropriate. The Order directs a convicted offender to do unpaid work for the benefit of the community. This work is managed by the Isle of Man Probation Service.

Offenders must comply with all aspects of the Order if they are to successfully complete it. This includes:

- Staying out of trouble;
- Attending where and when they are told and working all of the hours ordered by the court;
- Arriving on time and putting in good work for at least 7 hours each week.

Again, an offender may be returned to court for failing or refusing to co-operate in any way. This is known as being “in breach” of the Order. The court has the power to cancel the Order and re-sentence the original offence. This could be a prison sentence.

Attendance Centre Order

This Order is available for all adult offenders who have committed a less serious offence and provides a short duration intervention. The Attendance Centre is run by the Isle of Man Prison and Probation Service. The regime typically involves discipline, physical training and social skills. The order can last up to 36 hours depending on the age of the offender and the seriousness of the offence.

Fine or Compensation Order

The Court is responsible for enforcing fines and compensation orders. This is a legal process and is conducted by the Court.

A Fine is sum of money set by the Court to punish the offender, help compensate the victim for the offence, and deter any future criminal acts.

Compensation Orders if imposed are enforced on behalf of the victim. If the court decides to order the offender to pay compensation then the specified sum of money should be paid by the offender in full wherever possible to the Courts before leaving, however there may be exception and a payment plan may also be specified with a strict commencement date.

Every fine or Compensation Order made will be automatically acted upon by the Court.

Confiscation Order

Where a defendant is found guilty in the Courts of a criminal offence, and is it considered that the offender may have benefitted financially from the offence, a financial investigation may be undertaken. If this investigation identifies that the offender has benefitted financially from their crime the prosecution will tender a statement to the Courts.

When the offender appears before the court for sentencing, the court will consider the financial investigation report and determine whether the offender has financially benefitted from their criminal conduct and if so, the amount which is to be recovered. The court will then order the defendant to pay that amount. The procedure for enforcing orders that remain unpaid is through imposing a term of imprisonment in default.

Even after serving the default sentence the defendant will still be liable to pay the full amount of the order. Outstanding Confiscation Order amounts may also be subject to interest payments, which have been set at 8% per annum.

Exclusion Order

If an offender is made subject to an Exclusion Order it will be expected that they will be unable to return to the Isle of Man for a period of up to 5 years.

Other disposals available include:

Absolute Discharge - means there is no conviction on the defendant's record, despite the plea of the defendant.

Conditional Discharge - an order made by a criminal court whereby an offender will not be sentenced for an offence unless a further offence is committed within a stated period

Sexual Offences Prevention Order - This can be made at the time of sentence or applied for by the Constabulary at any time. It is specifically for those who have committed offences of a sexual nature and is designed to restrict the offenders certain behaviours and activities. It can be either time limited e.g. 5 years or indefinite.

Sexual Offences Registration - following the receipt of a sentence for a sexual offence, the court may impose specific criteria which require the offender to register their whereabouts with the constabulary on a regular basis but no less than annually. This could be for a set period of time e.g. 10 years or indefinitely.

A message from the Isle of Man Prison and Probation Service:

The Prison and Probation Service recognises the needs and rights of victims to be offered key information and to have the opportunity to ask questions after the court has passed sentence.

Section 4 - Release from custody

Released on Licence

The Isle of Man Prison and Probation Service supervise offenders who have been given a prison sentence of 12 months custody or more and released into the community to serve the rest of their sentence on 'Licence'. Probation Officers will supervise these offenders whilst they are in prison and will continue to supervise them after they are released.

The Isle of Man Prison and Probation service has very strict rules and this allows them to add certain behavioural expectations/conditions to a 'licence'. It is up to the offender to adhere to the licence conditions and be of good behaviour.

An offender may be recalled back to prison for part or all of this licence period if he/she is found to have breached their licence conditions without reasonable excuse.

Early release on parole licence

In the Isle of Man there is a 'parole system' and members of the 'Parole Committee' meet to consider whether a prisoner can be released from prison earlier than they otherwise would be, and serve the rest of their sentence in the community under the supervision of a Probation Officer.

The Parole Committee is made up of elected members of the public, who are independent of the Isle of Man Judiciary, and whose responsibility is set down in Law.

The Committee considers applications for release if an offender has been sentenced to 48 months (4 years) or more. The offender will not be released until they have served at least half of their sentence in custody. Early release is granted according to the merits of an individual, rather than being awarded automatically and it is seen as a 'privilege' and not an automatic entitlement.

(Prisoners may only apply for release on a parole licence if they are eligible under the relevant law to do so.)

The Isle of Man Prison and Probation Service will supervise the offender while on parole licence. The Probation Officer may suggest specific licence conditions which ensure the public are protected whilst enabling the offender to reform their life. These conditions can include the requirement for the offender to take part in specific offending behaviour courses aimed at reducing the risk of re-offending.

If the offender is not granted early release after the half-way point, they will in any case be released on licence after two thirds of their sentence has been served.

Extended Sentence Licence Supervision

An extended sentence can be imposed by the court at the time of sentencing. This means the offender will be subject to a longer than usual period on 'licence' due to the nature of offence that was committed. If the offender does not adhere to the conditions of the extended sentence supervision licence, they can be recalled to prison.

Licence Expiry

This is when the 'Licence period' is completed and they no longer have to be supervised by the Probation Service but they have not reached the end of their full sentence.

In the Isle of Man this usually occurs at the three quarter stage of the overall sentence. It is at this point the offender is described as being in the 'at risk' period. If his/her behaviour deteriorates, e.g. they commit another imprisonable offence, they could be recalled to prison by the Court and serve the remainder of their sentence until it expires in full.

Sentence Expiry

This is when the sentence is completed in its entirety.

Multi Agency Public Protection Arrangements (MAPPA)

Multi-Agency Public Protection Arrangements are meetings attended by professionals from different government departments.

Professionals share information about specific individuals who are thought to present a particularly high risk to the public or individuals, and look at ways of reducing that risk.

The Isle of Man Constabulary and the Isle of Man Prison and Probation Service are in charge of co-ordinating these meetings, the Department of Health & Social Care, the Department of Education and Housing Authorities are involved as well as the Voluntary/third sector groups, for example the Victim Support & Witness Service or Drug Action Team.

Multi-Agency Public Protection meetings can be held in respect of people convicted of certain categories of violent offences and people who have committed sexual offences.

Victims do not attend these meetings however one of the participating agencies may contact a victim to gain information about the way in which the individual of concern operates.

What support will I have?

You are entitled to be offered the opportunity to make a VPS at the same time as giving a witness statement about what happened to the police about a crime (as well as key stages throughout an offender's sentence).

Victim Support & Witness Service

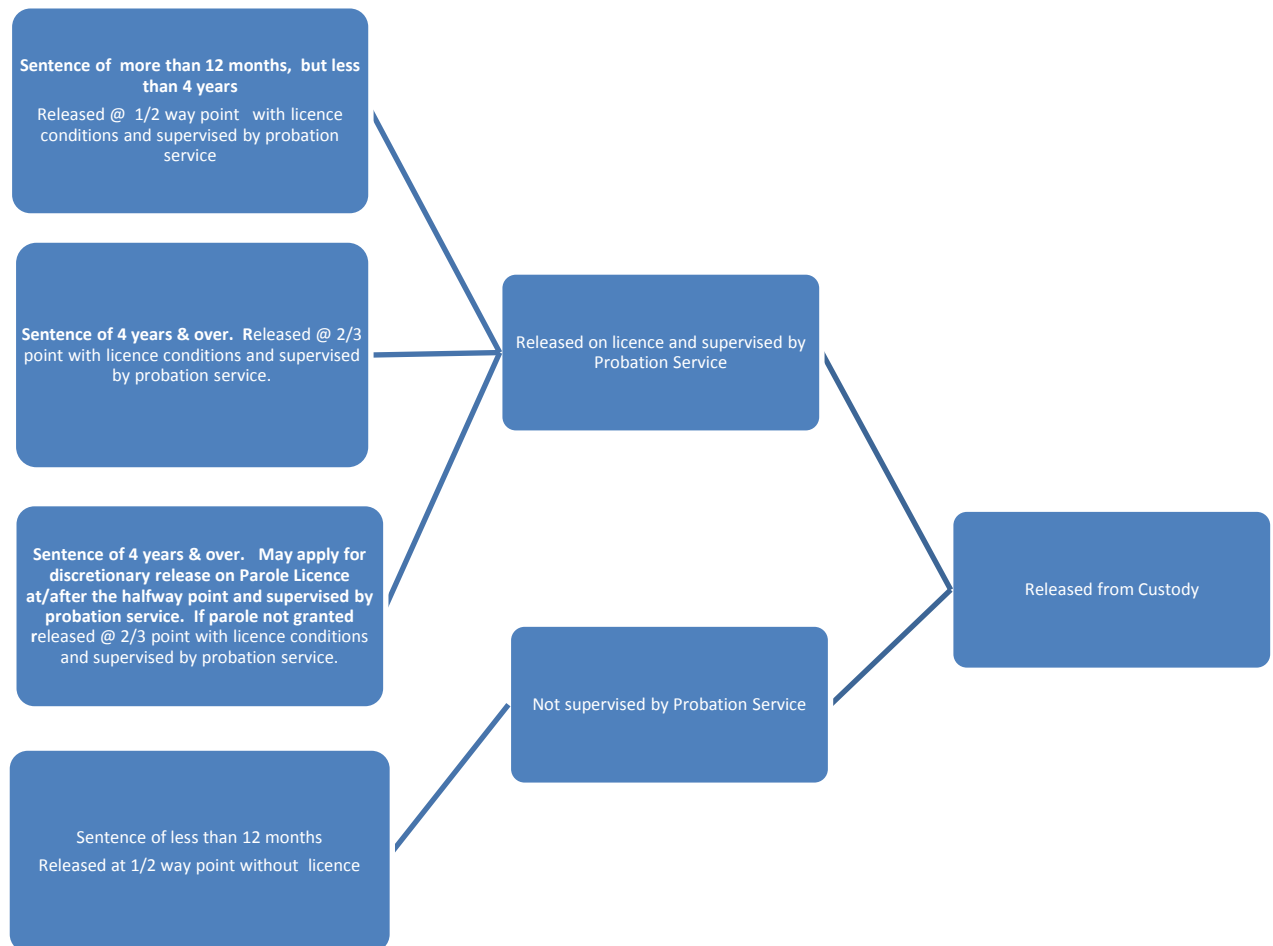
Victim Support & Witness Service offers emotional support, practical help and information to victims or witnesses of crime, their partners, families and friends, whether or not the crime has been reported and regardless of when it happened.

Staff and volunteers are trained to help people cope with the effects of crime, listen while people talk through their feelings and reactions to the crime, and try to help each victim find the way that best suits them to overcome those effects.

If you wish to contact the Victim Support & Witness Service to find out some information, they will be happy to help. The Service is voluntary, free and confidential.

Victim Support & Witness Service phone - 01624 679950

Diagram 4: Release from custody



Section 5 - Domestic Abuse

Domestic Abuse

Domestic abuse may include a number of different behaviours and consequences, so there is no single "domestic abuse" criminal offence. However, many forms of domestic abuse are crimes, including harassment, assault, attempted murder, rape and criminal damage.

Being assaulted, sexually abused, threatened or harassed by a partner or family member is just as much a crime as violence from a stranger, and can often be more traumatic and dangerous⁶.

There is also a perpetrators programme accessible for offenders of domestic abuse currently run on a 1-1 basis by the Prison and Probation Service.

Independent Domestic Violence Advisors (known as IDVAs)

If you are a victim of domestic violence and you are at a high risk of harm from the perpetrator, you may be assigned to an IDVA. The main purpose of an IDVA is to address the safety of a victim who is at high risk of harm from an intimate partner or a partner's family member. IDVAs only work with cases referred to them by the Isle of Man Constabulary and Prison and Probation Service. They do not discriminate on the basis of gender, ethnicity, sexual orientation or any other characteristic.

The Isle of Man Women's Refuge

Often, victims of domestic abuse cannot stay in the family home as it presents a real risk to them and their children. In this case, the Refuge can provide safe emergency accommodation to women and their children leaving abusive relationships. The Refuge offers support to enable them to take control of their lives and make choices about their future.

Additionally, a 24-hour Refuge telephone help-line is provided by staff and volunteers who are trained to give help and advice and, most importantly, to listen to women who may not yet have reached the point where they feel able to leave the relationship. Often women will remain with an abusive partner whilst considering their options. Refuge staff are able to meet with women in the community at an agreed time and location in order to provide practical and emotional support. All such contacts are treated in confidence.

You can ring the women's refuge any time day or night, they offer advice and support without judgement.

Isle of Man Women's Refuge Phone: 01624 677900

A message from the Criminal Justice Board (CJB):

Domestic violence and abuse is a problem taken very seriously on our Island. It occurs across all of our society and it has devastating consequences for victims, their children and their families. If this is happening to you, or to someone you know, you are encouraged to contact one of the above services to seek advice on what you can do.

⁶ The Isle of Man Domestic Abuse Pathway Implementation Group aims to improve services and support for all victims of domestic abuse by developing a Domestic Abuse Strategy. This Strategy will aim to promote joint multi-agency working, and commission the Independent Domestic Violence Advisor (IDVA) Service. The Strategy will also aim to provide signposting for children and adults to relevant Support Services.

Section 6 - Restorative Justice

If you have been affected by crime you may be left with questions and feelings that will not easily go away. Restorative Justice is about giving victims a voice.

The process is voluntary and offers victims the opportunity to have their harm or loss acknowledged by the offender. In turn, it encourages offenders to acknowledge the impact of what they have done and can give them an opportunity to make reparation. By repairing the harm to the relationships between offenders and victims, and offenders and the community that resulted from the crime, restorative justice seeks to understand and address the circumstances which contributed to the crime.

Restorative justice gives victims the chance to meet or communicate with their offender to explain the real impact of the crime. It also holds offenders to account for what they have done and helps them to take responsibility and make amends.

Restorative Justice is not an alternative to the court process.
If you decide to take part, it is important that you know that:

- Your participation is voluntary at all times;
- Your well-being and safety are a priority;
- Confidentiality will be respected at all times;
- You will be thoroughly prepared and supported before, during and after any meeting you take part in.

A message about Restorative Justice:

Restorative Justice is entirely focused on achieving greater peace of mind for the victim. It is a powerful mechanism to encourage offenders to acknowledge the impact of what they have done.

It can enable both victim and offender to negotiate a means by which the offender can make reparation to the victim. When victims, offenders and community members meet to decide how to do that, the results can be transformational. It can also lead to the offender reforming - which means reducing the chance of there being new victims in the future.

Why did this happen to me?

Are they sorry?

Is it going to happen again?

Was I targeted?

What sort of person would do this?

Does the person responsible realise the harm they have caused?

What does their family think of their behaviour?

Section 7 – Isle of Man Criminal Injuries Compensation Scheme

If you have been a victim of crime resulting in physical or mental injury or death in the Isle of Man, you may be entitled to compensation.

Compensation for an injury caused by a violent crime is an expression of the public's sense of responsibility for, and sympathy with, the innocent victim.

Incidents which occurred prior to 13 December 2005 are eligible for consideration under the 1983 Scheme and Incidents which occurred on or after 13 December 2005, will be eligible for consideration under the 2005 Scheme.

If you believe that you may be entitled to claim compensation under one of these schemes, you should refer to the relevant information and application forms available in [downloadable documents](#).

<https://www.gov.im/categories/benefits-and-financial-support/criminal-injuries/>

Secretary to the Criminal Injuries Compensation Scheme
1st Floor
Markwell House
Market Street
Douglas
Isle of Man, IM1 2RZ
Telephone: 01624 685103

Section 8 - Complaints

Complaints

Each Agency or Service provider mentioned within this Code of Practice will operate their own departmental /individual complaints procedure and the Victim Liaison Officer or Victim Support worker will provide assistance with these if needed.

All services are expected to ensure that they recognise and treat complaints received from victims in a respectful, sensitive and professional manner without discrimination of any kind.

Where a service provider (the initial provider) receives a complaint which should have been sent to a different service provider, the initial provider is responsible for ensuring that the complaint is directed to the appropriate service provider to respond.

The service provider is committed to providing a full and timely response which informs victims of the outcome of their complaint, and includes information about how the victim can escalate their complaint further if they wish to do so.

Where the complaint involves an administrative failure, and the relevant Department or agency has not been able to deal with the complaint, you may also have recourse to the Tynwald Commissioner for Administration. Contact details are below.

Contact details for each agency will be detailed below. (See Agency contact list p49-50)

Tynwald Commissioner for Administration

By email: ombudsman@parliament.org.im

By Post: PO Box 2, Port Erin, Isle of Man IM99 8JQ

<http://www.tynwald.org.im/about/TCA/Pages/default.aspx>

Section 9 - Frequently Asked Questions

Frequently asked questions about sentences:

Why is a sentencing discount given? Is there a scale?

When considering sentence the Sentencing Court will decide what is the “starting point”, that is “What would the appropriate sentence be if the offender had been convicted of this offence after trial and before any mitigation is considered?” Once that “starting point” has been arrived at the Sentencing Court will consider the mitigating factors and decide what discount is appropriate. A discount is given to reflect such things as co-operation with the Constabulary, a guilty plea having been entered to the offence at an early stage, so saving Constabulary and court time and giving reassurance to any victim. If such credit was not given there would be no incentive for offenders to co-operate, plead guilty or to demonstrate their remorse.

Why doesn't a life sentence mean life?

If an offender is sentenced to a life sentence they will serve a term in prison, called a “tariff” (for example 25 years) which is the minimum time the offender must serve in prison before consideration is given to the offender being released on licence. Subject to risk assessment an offender may be released on licence which means that they are subject to certain conditions and they can be sent back to prison at any time if they break any of the conditions. These conditions apply for the rest of their life. Some offenders do receive a whole life tariff which means that they will spend the rest of their life in prison.

Why are offenders let out of prison early?

If a Sentencing Court sentences an offender to custody it decides the length of the custodial sentence. However the time spent in prison is just part of the sentence, the rest is spent in the community. This assists with the management of the offender both in prison and in the community. Depending upon the length of the sentence there may be a period of licence imposed during which the offender will be supervised by a probation officer, any breach of the conditions of his licence or any further offending whilst on licence may result in the offender being returned to custody. The Sentencing Court has no control over the actual time spent in prison as such is governed by the provisions of the Custody Act 1995.

Why don't offenders always get sent to prison?

When the Courts hand down a custodial sentence it is usually because they feel the offence is so serious that prison is the only option. The Judiciary will refer to the legislation as well as previous cases, and will take into account other factors including; early guilty plea, intent, seriousness, harm caused, previous convictions before deciding upon a sentence. Some offenders rightly deserve an immediate prison sentence, but prison sentences are not appropriate or available for every crime and many can be better dealt with in other ways that assist in an offenders community rehabilitation.

Victims don't always seem to be considered enough in sentencing - why is that?

The Sentencing Court does consider the victim and the impact of the offending behaviour on the victim, including the Victims Personal Statement if one was submitted. The effect of the offending behaviour on the victim is an important factor for the Sentencing Court to arrive at the decision as to the appropriate sentence. The Sentencing Court does give regard to statements from victims and the Sentencing Court is acutely conscious of the impact of offending behaviour on victims and the community generally. It is not however appropriate to permit the victim or indeed the defendant or others unduly to influence the sentencing process or to dictate to the Sentencing Court the sentence which should be imposed.

Can a convicted offender appeal the sentence that the Judge gives them?

Yes, there are rights of appeal. Applications against convictions must be made within a specified period of time. Someone who has been convicted in the Magistrate's Court may appeal to the Court of General Gaol Delivery, then in certain circumstances to Appeal Division and with a final appeal, subject to leave, to the Judicial Committee of the Privy Council. Witnesses are never required to attend Appeal Hearings.

Can I attend court when the sentence is passed?

If the defendant is convicted, you may wish to attend the sentencing hearing. A date for this hearing is given at the conclusion of the trial. If you are not present at the sentencing hearing and you want to know the outcome you can ask the Victim Support & Witness Service & Witness Service to contact you and notify you of the outcome. In some circumstances the Constabulary may contact you. The Courts of Justice website publishes court lists (these do not include those of the summary courts) which contain advance details of the dates hearings will be held, and can be accessed at:

www.courts.im/CourtListings/introduction.xml

Frequently asked questions about the court process:

Can I refuse to give evidence?

It is possible that after agreeing to attend court and then signing a Court Warning Slip (below) you could be committing an offence if you refuse to give evidence. If you have given a signed statement to the Isle of Man Constabulary and are later required to go to court, the Constabulary and Advocates will try to arrange a court date which is mutually agreeable to all who need to attend. The Isle of Man Constabulary will then ask you to sign a document to formally show that you know the date on which you are required to attend court.

You will be informed at that time that should you fail to attend the court without a reasonable excuse you could be liable to prosecution. If you have signed the slip and are then unable to attend you must contact the Constabulary and Advocates immediately so that alternative arrangements can be made. There is support available should you be frightened or concerned about giving evidence and you should tell the Isle of Man Constabulary if this is the case.

What will happen if I don't turn up at court?

If you don't turn up to court on the date agreed without giving a good reason, you will be committing an offence. The Courts may see fit to raise a summons for you to attend.

What if I can't remember something when questioned?

If you remember the following you will not go wrong:

- Answer only the question that is being asked;
- If you do not understand a question say so and it will be asked in a different way;
- Indicate when you do not know the answer to a question;
- If you cannot answer a question because you have forgotten certain things, do not feel embarrassed to say so.

It is normal after time to forget some details and you can only tell the court what you do remember to the best of your ability. Remember, you will have an opportunity to read the statement you gave to Isle of Man Constabulary before you enter court.

What do I do when I get to court?

On arrival you will go through a security check. You should then report to the reception desk. If you have arranged to meet with a volunteer from the Witness Service you should say so. If not, you should inform the receptionist of your arrival and the receptionist will direct you to the relevant court waiting area. This is where you will be met by the

prosecutor or defence advocate (depending on whether you are a prosecution or defence witness).

What should I wear?

Wear something smart but something in which you feel comfortable.

What do I call the Deemster / High Bailiff /Deputy High Bailiff?

You should be polite. Sir or Ma'am is acceptable. The Deemster is called Your Honour and the High Bailiff, the Deputy High Bailiff and Magistrates are all referred to as your Worships.

How long will I be needed?

This will depend entirely on the case itself and the evidence you are required to give. It is hoped that you will not be required for more than a few hours in total (including waiting time at court) and efforts will be made to avoid you having to come to court until you are required. Court sessions normally start at 9.30am and 2.30pm, though other times may be allotted.

I am due in court but I don't have a babysitter - can I bring my children with me?

Regrettably, children cannot be allowed in the courtrooms and there are no facilities for their care whilst parents are in court. The Courts also cannot accept responsibility for any children whilst unsupervised in the building.

I am giving evidence - can I bring a friend with me?

Anyone attending court with you will have to sit in the public gallery. You can contact the Witness support Service and they will talk you through what to expect and can arrange for a volunteer to accompany you.

When should I arrive?

You should aim to arrive at the Court Complex at least 15 minutes prior to the start of the session. You will need to wait until you are called to give evidence. Please be advised that it may take a while before you are called into the court room, and this will depend on what other cases are being heard in court before your case is called.

I am disabled - can I access the Court Complex easily? Is there an accessible toilet?

Yes, there is a ramp leading from the street to the main door. Once inside, all levels can be accessed by lift. If you ask at reception a member of staff will be pleased to assist you. There are disabled toilets located within the Court Buildings.

Is there a hearing loop in the court room so I can hear what is happening?

Yes. Please notify the Court Usher of your need to ensure one is available prior to entering the court.

Where is the court?

The Court Building is located off Deemsters Walk, Bucks Road, Douglas, and Isle of Man. IM1 3AR. There is limited parking in the area. Public entry is through the glass doors on Deemsters Walk.

Will I be able to tell the court how the crime has affected me?

The Isle of Man Appeal Court has endorsed the use of Victim Impact Statements in certain cases. A Victim Personal Statement (VPS) is a written account of the personal harm suffered by the victim of a crime and may include a description of the physical, financial and emotional effects. The VPS is intended to give crime victims a voice in the criminal justice process and allows the court to consider the effect of the crime before passing sentence (Please see Appendix 1 for further information).

After I've given evidence can I leave?

In most cases you will be told when you can leave, after which you are free to return home, go back to work or school. Or you may prefer to watch the rest of the case from the public gallery. Exceptionally, you may be asked to wait within the Court Complex as you may be further required. Whether you are free to leave or required to remain, you must not speak to any other person about the case and the evidence you have given until the case is concluded.

Will the Isle of Man Press or other media be there? Will my name be published?

Journalists are able to attend hearings at the Courts however, reporting restrictions may apply. The media does not report the names of offenders, victims or witnesses if they are under the age of 18 years. Only in very exceptional circumstances, after an application has been made by the media to the presiding Deemster, may permission be given to publish names.

Can I protect my identity in court?

Only in very limited circumstances. Generally, if you are giving evidence you will be required to give your name to the court. There are very few restrictions placed upon the media in terms of what can and what cannot be reported. Information that might lead to the identification of a child witness or a defendant aged less than 18 years is prohibited.

Who will be in court?

In all cases there will be a Judge (i.e. Deemster, High Bailiff, Deputy High Bailiff or Magistrates). It is a fundamental principle of justice that court proceedings take place in public. If you are required to give evidence it would be normal to do so in an open court room in sight of everyone. That means that you will be able to see the defendant and he or she will be able to see you.

Can I use a screen or 'live-link' to give my evidence?

The court may give permission, in exceptional circumstances, for you to give evidence from behind a screen, or by way of a "live-link". The use of a screen or a 'live-link' typically arises in sexual abuse cases when a child is giving evidence but can be used in other circumstances for vulnerable or intimidated witnesses. The Constabulary and Victim Support & Witness Service will discuss this with you, if appropriate, as the use of a screen or a 'live-link' is entirely at the court's discretion.

If I use a screen or 'live-link', who will see me?

If a screen is used the defendant will not be able to see you (and vice versa) but you may be seen by other people in the court room. If a 'live-link' is used everyone who is in the court room will normally be able to see you on a television screen but you will only be able to see on your screen certain people such as the lawyers and the Judge (Deemster).

Are the defence advocates or the prosecution allowed to mention my past in court?

Unless your past is relevant in some way to the case then you should not be asked questions about it. Only questions relevant to the case can be asked.

The defendant doesn't have an advocate, what will happen? Will he or she be able to question me?

Yes, but only questions relevant to the case can be asked. The Deemster/High Bailiff/Deputy High Bailiff /Magistrates will ensure that questions are put to you in an appropriate manner. Please contact the Victim Support & Witness Service if you are concerned about this.

I'm concerned about my safety after giving evidence, what can I do?

Threats and intimidation towards witnesses are not tolerated by the courts or the Constabulary. It is an offence to intimidate a person assisting in an investigation. If at any

time you feel threatened due to your involvement in an investigation, whether as a victim or a witness, you must notify the Isle of Man Constabulary or the prosecution Advocate. If you are subject to threats, intimidation or believe you are in immediate danger, you must call the Isle of Man Constabulary. Dependent on the circumstances and nature of the threat, there are a number of safeguards that will be considered on a case by case basis. It is an offence, under the Criminal Justice Police and Courts Act 2007, to intimidate a person assisting Law Enforcement in an investigation.⁷

Do I have a say in what bail conditions are set?

Depending on the nature of the offence, the Isle of Man Constabulary will speak to you about any concerns you may have about the defendant's release and the Courts may take these into consideration when considering the appropriate course of action. Any bail conditions must be justified.

Frequently asked questions about the management of a case:

How will I know what is happening with my case?

Prior to an individual being charged, the Police Investigating Officer will keep you informed if there is significant progress in your case. Once charged the Victim Support & Witness Service staff will take over if you want their help. They will:

- explain what action is being taken in your case;
- inform you of the outcome if the case has been referred to the Prosecution Advocate service for advice;
- direct you to other support services.

Why has the suspect been bailed and not charged?

Police Powers Procedures Act (referred to as 'PPP') restricts the amount of time a suspect may be held in custody by the Isle of Man Constabulary. Bail may be granted to a person who has been formally arrested in order to allow further evidence to be gathered that may not otherwise have been readily available (e.g. forensic or analytical evidence), or to allow the Investigating Officer to follow up any lines of enquiry that may not have been possible at the time or within the time available.

When bail is granted, the person will be advised of a date and time that they must return to custody. Upon their return to custody the investigation will continue to a conclusion or bail may be granted once again. On conclusion of an investigation, a decision will be made as to whether there is sufficient evidence to support a charge. Alternatively, the person will be released.

How is the decision made about whether to charge someone or not?

All criminal cases in the Jurisdiction are prosecuted by Advocates working from the office of the Attorney General. In every case it has to be decided whether the evidence gathered provides a realistic prospect of conviction (i.e. that a conviction is more likely than not on the basis of the evidence that is available). If there is a realistic prospect of conviction it will then be decided whether a prosecution is required in the public interest. Factors taken into account may include the seriousness and prevalence of the offence, the likely penalty, the offender's age and previous offending history.

It is important to note that prosecutors do not act for victims or their families in the way that defence advocates do for their client (the defendant). This is because prosecutors must form an objective view of the case. A criminal prosecution is undertaken on behalf of the public as a whole and not specifically for the victim.

⁷ Any incident that occurs within the Court precinct should be reported to the Prosecution Advocate or to the Police, either directly or via the Usher.

Will someone be able to help me check my statement?

Yes. If you have been referred to the Victim Support & Witness Service they will go through your statement with you.

How long will it take for the case to go to court?

There is no single rule as to how long it will take for a case to go to court. This is because each case is different. The defendant may appear in court as soon as they are charged and, if they plead guilty, they may be dealt with there and then. However, they could be bailed for 2 to 3 weeks before their first appearance (See Section 2 “The Courts: First and further appearances” for further information). Once the outcome is known the Constabulary will advise you and make the necessary arrangements.

How long will the whole process take?

If the case is to be heard in the Court of General Goal Delivery or a court of summary jurisdiction it may not be concluded for many months. This is due to a range of factors including the availability of advocates, witnesses, the courts etc. and as the courts must enable adequate time to be given for the parties to submit and prepare their cases. If the defendant is convicted the court may request reports in order to have more information about the defendant’s background before a sentence is passed (See Section 3 “Sentencing” for more Information).

Frequently asked miscellaneous questions:

What is a Pre-Sentence Report?

A pre-sentence report is written by qualified Probation Officers and contains information to inform the court’s decision about what kind of sentence would be appropriate. This helps ensure that justice is served and that steps are taken to give the offender the best opportunity to change his or her behaviour in the future. The Probation Report will include an analysis of the offence and information about the offender’s background. It will also include a ‘risk of harm to others’ assessment and ‘a risk of reoffending’ assessment. The report also details the work needed to reduce the risks identified.

Will there be an interpreter / translator available who speaks British Sign Language or another language?

If you require an interpreter or translator this will be identified at an early stage -either by the Isle of Man Constabulary when you give your statement or by the Victim Support & Witness Service.

I have a learning disability - what support is available for me?

The Isle of Man Constabulary and the Victim Support & Witness Service will identify with you what additional support you may need.

How do I claim for compensation?

You can ask, via the Advocates, for the court to consider making a Compensation Order in respect of any loss or injury you have suffered or in respect of any legitimate expenses you have incurred, such as medical bills. To do this you need to submit copies of accounts or receipts to the Constabulary at the earliest opportunity and before the trial commences.

Generally speaking, compensation is only awarded when the claim is clear and straightforward.

If it is not clear, or if there is likely to be a dispute over the amount, you may have to pursue a claim through the civil court. If you do receive compensation in the criminal

court it does not stop you from suing the offender in a civil claim for any further amount that you believe is owed to you. In all cases, compensation is awarded only at the court's discretion and upon a guilty verdict.

For more information contact the Criminal Injuries Compensation Scheme on Tel - 01624 685103 or read the booklet at:

<https://www.gov.im/media/1353014/guidelines-booklet-cics-2005.pdf>

<https://www.gov.im/media/1353018/application-form-2005-scheme.pdf>

<https://www.gov.im/media/1353015/isleofmancriminalinjuriescompen.pdf>

<https://www.gov.im/media/1353017/application-form-1983-scheme.pdf>

I'm a victim of domestic abuse. Who will my contact details be passed on to?

Only with your permission, your details could be passed to the Victim Support & Witness Service, and the Isle of Man Women's Refuge (unless you have specifically asked for them not to be).

The Advocates will also receive your details, if required for prosecution. Your contact details will not be passed on to the offender or to their advocate.

Frequently asked questions about what happens afterwards:

Will someone tell me when the offender gets out of Prison?

Victim Support & Witness service should liaise with the Isle of Man Prison and Probation Service for an update and tell you about any significant change in circumstances, for example when the offender applies for early release on parole licence.

Can I get protection when the offender is released from Prison?

If you are concerned about your safety you should contact the Isle of Man Constabulary. Witness intimidation, both before and after a person is convicted, is an offence. When the Isle of Man Constabulary receives information that a witness may be at risk they will take appropriate action.

You will be informed at the time that should you fail to attend the court without a reasonable excuse you could be liable to prosecution. If you have signed the slip and are then unable to attend you must contact the Constabulary and Advocates immediately so that alternative arrangements can be made. There is support available should you be frightened or concerned about giving evidence and you should tell the Isle of Man Constabulary if this is the case.

What support will be available to me after the end of the case?

Support from the Victim Support & Witness Service does not stop when the court case ends. Victims and witnesses can contact the Service at any time to talk over the case. The Service may, with your agreement, liaise with other statutory or voluntary agencies in order to provide information or additional support.

Agency Contact List:

Criminal Justice Board

The Criminal Justice Board was convened as part of the introduction of the Criminal Justice Strategy in December 2012.

The Board consists of:

Chair	- Chief Executive Officer, Department of Home Affairs
Deputy Chair	- Chief Registrar, General Registry
Member	- Head of Prison and Probation Services, DHA
Member	- Chief Constable, Isle of Man Constabulary
Member	- President, Isle of Man Law Society
Member	- Business Change Director, Chief Secretary's Office
Member	- Director of Prosecutions, Attorney General's Chamber

Isle of Man Courts of Justice - 01624 685265

Isle of Man Courts of Justice

Deemsters' Walk

Bucks Road

Douglas

Isle of Man

IM1 3AR

www.courts.im

Complaints: <https://www.courts.im/courtinformation/organisation/complaintshandling.xml>

IOM Prison & Probation Service - 01624 891000 & 01624 687324

Isle of Man Prison

St Patrick's Close

Coast Road

Jurby

Isle of Man

IM7 3JP

E-mail: prison@gov.im

The IoM Probation Service

Tromode House

Ballafletcher Road

Douglas

Isle of Man

IM4 4QE

E-mail: probation@gov.im

Complaints: DHA Complaints Officer: julian.lalor-smith@dha.gov.im

Isle of Man Constabulary - 01624 631212

Police Headquarters

Dukes Avenue

Douglas

Isle of Man

IM2 4RG

E-mail: police@gov.im

Complaints: Police Complaints Commissioner, PO Box 12, Peel, Isle of Man. IM99 9XS

<https://www.gov.im/media/1355642/how-to-make-a-complaint.pdf>

Attorney General's Chambers - 01624 685452

2nd Floor
Belgravia House
Circular Road
Douglas
IM1 1AE
E-mail: attgen@gov.im

Complaints: <http://www.iomlawsociety.co.im/rules-complaints/complaints/>

Youth Justice Team

Department of Health and Social Care
Murray House
Mount Havelock
Douglas
IM1 2SF

Victim Support & Witness Service - 679950

6 Albert Street
Douglas
Isle of Man
IM1 2QA
E-mail: iomvictimsupport@manx.net

Complaints: iomvictimsupport@manx.net

Women's Aid Refuge - 01624 677900

A charity who provide secure temporary accommodation (The Refuge) to women and children who are suffering, or who have suffered, from domestic abuse of any kind
www.womensaid.org.uk

Child and Adolescent Mental Health Service - 01624 642875

Noble's Hospital
Braddan
Isle of Man

Complaints: Complaints Manager, Mental Health Service, Cronk Coar,
Noble's Hospital, Braddan. Isle of Man IM4 4RF

Cruse Bereavement Care - 01624 668192

Cruse Bereavement Care exists to promote the well-being of bereaved people, and to enable any bereaved person to understand their grief and cope with their loss.

6c The Village Walk
Onchan
Isle of Man
IM3 4EA
E-mail: iomcruse@manx.net

The Children's Centre - 01624 676076

www.thechildrenscentre.org.im

Mental Health Crisis Response and Home Treatment Team - 01624 642860

The Crisis Response and Home Treatment Team (CRHTT) provides an Island wide accessible assessment and crisis response service for people who are experiencing significant deterioration in their mental health and/or an increase in their psychological distress which requires an urgent response to facilitate a resolution of crisis.

Mannanan Court
Noble's Hospital
Douglas

Complaints: Complaints Manager, Mental Health Service, Cronk Coar,
Noble's Hospital, Braddan. Isle of Man IM4 4RF

<https://www.gov.im/about-the-government/departments/health-and-social-care/mental-health-service/complaints-procedure-dept-of-health-social-care/>

The Samaritans - 01624 663399

Available 24 hours a day to provide confidential emotional support for people who are experiencing feelings of distress, despair or suicidal thoughts.

5 Victoria Place
Douglas
Isle of Man
IM1 2QA

Crimestoppers - 0800 555111

This is not an advice line; it is a confidential answer phone to enable people to leave information for the police. All calls are confidential and acted upon accordingly.

Criminal Injuries Compensation Scheme - 01624 685103

Secretary to the Criminal Injuries Compensation Scheme
1st Floor
Markwell House
Market Street
Douglas
Isle of Man
IM1 2RZ

Isle Of Man Law Society - 01624 662910

Isle of Man Law Society,
27 Hope Street, Douglas,
Isle of Man,
IM1 1AR

Glossary of Terms

PEOPLE, PLACES AND WORDS YOU MAY NEED TO KNOW

Glossary of Terms

Advocate - A lawyer qualified to practice in Isle of Man.

Adjourn - To postpone a case until a later specified date. This is usually for further enquiries to be made by either the prosecution or defence or for sentencing when probation or psychiatric reports are ordered. It also provides time for the prosecution to review the written evidence in the case fully and for the defence advocate to view the evidence and advise their client.

Aggravating factors - Factors which are taken into consideration by the court and which may increase the sentence. E.g. previous offending of a similar nature.

Appeal Division - A Court presided over by a minimum number of two judges.

Bail - When a person is granted bail it means they are under an obligation to return to the Police Station or to the court at some future date. If a person has been arrested but has not yet been charged with an offence they may be bailed to return to the Police Station at some future date whilst the investigation continues. This is generally known as "Bail". This type of bail cannot have any conditions attached to it that restrict, for example, where the suspect may go and who s/he may speak to. However, once a person is formally charged with a criminal offence they can be released on bail with conditions.

Bail Conditions - There are a variety of conditions which can be considered including: forbidding the defendant from contacting named individuals or going to certain places; forbidding the defendant to consume alcohol; banning the defendant from leaving the jurisdiction; imposing a curfew so that the defendant remains indoors between fixed times. Breaking conditions can result in immediate re-arrest.

Charged /Being "charged" - means being formally accused of committing a crime and having to go to court to answer to that accusation. Once a person is charged with an offence, he or she becomes known as a "defendant".

Committal - The procedure that sends a case from the Summary Court to the Court of General Gaol Delivery for trial is known as a "committal". During committal proceedings the court will decide whether there is a "prima-facie" case to answer.

Compensation Order - If a victim has been financially impacted by an offence and the offender is convicted of the offence, the court can order the offender to pay compensation to the victim.

Conviction - A conviction is the result of a finding of guilt at the end of a trial or following a guilty plea.

Court of Summary Jurisdiction - A court presided over by the High Bailiff, Deputy High Bailiff or the Magistrates. Every case must first go to the summary courts. A case may remain at and be dealt with by the summary courts. More serious offences are committed to the Court of General Gaol Delivery for consideration.

Defendant - A person who has been accused of a crime and is on/awaiting trial in a court of law.

Either-way offences - The majority of offences are known as 'either way'. This means they can be dealt with in either the Summary Court or the Court of General Gaol Delivery.

Incentives & Earned Privileges Scheme - The Scheme, operated within Isle of Man Prison, aims to encourage responsible behaviour and effort and achievement in work and education. The scheme offers privileges such as extra visits, higher rates of pay, access to in-cell TV, opportunity to wear their own clothes and time out of cell for association.

Information Only offence - A very serious offence which must be dealt with in the Court of General Gaol. The following are Information Only offences: Perjury, Piracy, Rape, Murder, Manslaughter, Treason and Criminal Damage with intent to endanger life.

Jury - In a criminal case the Jury perform a similar function to a UK jury. In a trial the Presiding member of the Judiciary is responsible for ensuring the case is run fairly and provides the Jury with guidance on the law. The Jury, however, are the sole decision-

makers on the facts and whether they find the defendant guilty or not guilty. There are usually 7 jurors required for a trial but 12 are needed in some cases.

Live-Link Video - a conferencing system which enables remote victim/witness testimony to take place from a different area, either within or outside of the court

Mitigating circumstance - Explaining the circumstances of the offender and the offence to the court with the intention of drawing out whatever can properly be said in his or her favour. For example, previous good character, young age, remorse, guilty plea, co-operation with the Constabulary etc.

Parole system - The process by which decisions are made relating to the release of a prisoner before his or her sentence has expired on the condition that, amongst other things, he or she is of good behaviour.

Plea and Directions Hearing - A hearing in Court of Summary Jurisdiction at which the defendant may indicate whether he or she intends to plead guilty or not guilty. If the defendant pleads 'not guilty, directions will be given as to how the case will proceed to trial. If a guilty plea is entered, a date when he will be sentenced is normally identified. A defendant may choose not to enter any plea.

Prima facie - Prima facie means that the evidence is of such strength that a reasonable tribunal, properly directed, could convict the defendant of the offences alleged to have been committed.

Probation Order - Sometimes called a Suspended Sentence Supervision Order, which means they do not go to Prison but are supervised by the Probation Service.

Prosecution - The legal proceeding against a person accused of committing a criminal offence.

Prosecutor - Someone who appears in court to present the prosecution's case. In local criminal matters this role is undertaken by Advocates.

Public Interest - In a criminal context "public interest" is considered by the prosecution when deciding whether to prosecute a case. A prosecutor will consider, amongst other things, whether the prosecution is necessary for the good of society and/or to promote good order in society.

Resettlement - The purpose of resettlement is to assist an offender in the transition between custody and release into the community. Access to education, employment skills, accommodation, health care family ties all contribute to successful resettlement.

Summary offence - An offence that can only be dealt with in the Summary Court. Examples include behaving in a disorderly manner and a number of road traffic offences.

Summons - A notice instructing a defendant to appear in court when it is said that they have committed an offence. If the offence is sufficiently serious then that person may be arrested during the investigation. A witness can also be summonsed to attend court to give evidence, and failure to do so could result in their arrest.

Suspended Sentence - A period of imprisonment that is suspended for a set period of time.

Suspended Sentence Supervision Order - Sometimes called a Probation Order, which means they do not go to Prison but are supervised by the Probation Service.



Appendix 1

ISLE OF MAN CONSTABULARY CORPORATE DOCUMENT

Victim Personal Statement

FRONT PAGE TO BE COMPLETED BY FORCE BUSINESS MANAGER ONLY

TITLE	VICTIM PERSONAL STATEMENT
DOCUMENT TYPE	SOP
SECURITY MARKING	Official
FREEDOM OF INFORMATION	Suitable for general disclosure to the public under the principles of the Freedom of Information Act.
DOCUMENT DESCRIPTION	A guide for all criminal practitioners in respect of victims having the right to explain how a crime has affected them.
DEPARTMENT OWNING	Organisational Development
PREPARED BY	Thompson, Allan (Police)

VERSION NUMBER	APPROVED DATE	APPROVED BY
1	31/01/2018	Senior Management Group

1. About this Guide

Crime affects people in different ways, whether physically, emotionally, psychologically, or in any other way. Some victims may cope and recover quickly, while others may need more help or support.

This guide is for anyone who might be involved in the Victim Personal Statement (VPS) process – including police officers and investigators, as well as staff from the Attorney General’s Chambers (AGs), Witness/Victim Support Units and the courts. It particularly focuses on helping police officers to explain to victims what the VPS is and what information should be given to victims if they choose to make one.

1.1 Why is the guide important?

This guide gives criminal justice practitioners all the information they need to explain to victims what is involved in making a VPS. This will help the victim to make an informed decision on whether or not they wish to make a VPS. The VPS will also give the court an informed picture of how the crime has affected the victim when determining any sentence to be imposed on the defendant.

2. Victim Personal Statement (VPS)

The VPS is a statement written in the victim’s own words. It gives victims of crime (or their relatives) an opportunity to tell criminal justice agencies and the courts about how a crime has affected their lives. It also helps criminal justice agencies to understand fully the impact that the crime has had on the victim so that they can make decisions about the case. The VPS is optional. No pressure should be put on victims to make one if they don’t want to. However, it is important that the victim understands the benefits of making one.

The VPS can make a lasting and positive difference to victims. It can also affect how they feel the police and criminal justice system are dealing with the case. The VPS gives victims a voice in the criminal justice system. Victims can also say whether or not they would like to read their VPS aloud or have it read aloud on their behalf in court, subject to the discretion of the court.

The VPS is different from the Witness Statement, which is a written or video recorded account of what happened to the victim. The police must offer the victim the opportunity to make a VPS if taking a statement from that person.

The victim should be made aware that the VPS is a formal Witness Statement and that they will need to sign a declaration confirming that it is true to the best of their knowledge.

The VPS may be reported on in the media and it is possible that on rare occasions victims may be cross-examined by the defence on the content of their VPS.

2.1 What information should be included in a VPS?

The VPS will explain the impact the crime has had on victim.

For example, a victim might want to mention:

- any physical, financial, emotional or psychological injury they have suffered and/or any treatment they may have received as a result of the crime
- if they feel vulnerable or intimidated
- if they no longer feel safe
- the impact on their family
- how their quality of life has changed on a day-to-day basis
- if they need additional support, for example because they are likely to appear as a witness at the trial

The VPS should not contain the opinions of the victim or the victim's close relatives on what the sentence should be. Victims should be advised on this as this is for the court to decide. Any inappropriate content, such as unsubstantiated claims against the alleged offender may be redacted from the final version of the statement before the court.

2.2 Reading the VPS aloud

Victims can express a preference as to whether they would like to read their VPS aloud in court or have it read aloud on their behalf. If the victim says they want to read their VPS aloud, the police must record this. The presumption is that any VPS will normally be read by Prosecution Counsel but if the victim (or relative of the victim) wishes to read the document, an application can be made seeking the court's permission. Prosecution Counsel should apply to the court at least 7 days in advance of the sentencing hearing setting out the reasons for the application. If the court gives permission, the person who will be reading the VPS should be advised that they must not depart from its contents.

2.3 The VPS and sentencing of an offender

When passing sentence, the court will consider how the victim's life has been affected by the crime, including information contained in the VPS as far as the court considers it appropriate – along with all the other evidence in the case and the relevant sentencing guidelines.

2.4 When to offer the VPS?

The VPS should be made at the same time as the victim makes a Witness Statement. Although they are entitled to make a VPS, they do not have to do so. If the victim is unsure about making a VPS at the time of making a Witness Statement, they will be free to make a VPS later, provided that the VPS is made before the offender is sentenced.

The officer must ask the victim whether or not they would like to read relevant parts of their VPS out in court or have it read aloud on their behalf if the defendant is found guilty.

2.5 Talking to victims about the VPS

You must:

- Provide victims (or close bereaved relatives) with information about the VPS and explain that it is a statement made by victims in their own words to explain how a crime has affected them. The police should inform the victim about what should and should not be included in the VPS (see above). The statement should be taken on an MG- 11 form.
- Explain that the VPS is optional – no one has to make a VPS if they do not want to and it will not affect how the case is investigated. No pressure should be put on the victim to do this.
- Explain that the victim can express a preference as to whether or not they would like to read their VPS aloud (or have it played if recorded) or have it read out on their behalf (usually by a prosecutor) in court if the defendant is found guilty during the trial. You should also explain that the decision on whether or not the victim is able to read out all or part of their VPS is at the discretion of the court. You should record the victim's preference.
- Explain that the statement will still be considered by the court as far as it considers appropriate when sentencing an offender whether or not the victim chooses to read their VPS aloud or have it read aloud on their behalf.

- Explain to the victim that they may change their minds and make a VPS at a later date. If they don't want to make a VPS at the same time as making the Witness Statement, inform them that some cases are dealt with by the courts very quickly and that there may not be another opportunity to make a VPS before the trial.
- Make the victim aware of the possible consequences of making a VPS. For example, the VPS may be reported on in the media. On rare occasions, it is possible that the victim may be asked questions about their VPS in court.
- Ensure that you forward the statement to the AGs and inform the AGs of the victim's preference (on reading their VPS aloud), in a timely manner so that an application to court can be made.

If the victim is under 18 years old:

- The police will need to explain to the child, their parent or guardian what the VPS is, in a way they will understand.
- Their parent or guardian will also be able to make a separate VPS if they want to.
- If the child is very young or has communication difficulties, you should consider consulting with their parent or guardian about whether they, the child or both of them should make the VPS.
- The VPS should be taken in the same format as the Witness Statement (either written or visually recorded)

3. Impact Statements for Businesses (ISB)

The ISB is a written statement that gives businesses (or enterprises such as charities) an opportunity to inform criminal justice agencies and the court about the impact a crime has had on their business, such as direct financial loss so that they can make decisions about the case.

The ISB is different from a witness statement or Victim Personal Statement, which can be written or visually-recorded accounts of what happened to the individual victim or how they felt.

An opportunity to make an ISB should be offered to all businesses that are making a witness statement in connection with the case. The ISB can also be taken at the same time as the witness statement.

3.1 Who completes the ISB?

An ISB can be made by any business or enterprise (such as charities) but not public sector bodies, their agencies or other subsidiary organisations.

A person making an ISB on behalf of a corporation ("the nominated representative") must be authorised to do so on its behalf. The nominated representative must also be in a position to give evidence that is admissible in court about the impact of the crime on the business. The nominated representative may be required to answer questions on the ISB in court.

Business representatives may change or leave their post in the business after making the statement. The business should be informed before making the statement that the name of the business representative on the ISB cannot be changed and that the original statement will still be used as evidence in the case.

The business should therefore be advised to consider carefully who to nominate as the representative to make the statement on its behalf.

3.2 The role of the ISB in court proceedings and sentencing

If a defendant is found guilty, the court will take the ISB into account when determining the sentence as far as it considers appropriate – along with all the other evidence in the case and the relevant sentencing guidelines.

3.3 What should the ISB include?

Businesses should be advised that the ISB can include the following information:

- Financial losses such as; earnings and staff costs, loss of custom / impact on consumer confidence or expenditure on security measures (e.g. physical infrastructure, IT)
- The physical impact on staff
- Reputational impact

In their ISB, businesses should not provide an opinion or recommendation on the sentence or sanctions that the courts should use. This is for the court to decide. They should limit the information they give in this statement to the impact this particular crime has had on the

business, rather than providing information on how any previous criminal activity that occurred may have affected the business (unless, for example, this crime results from the repeat offending of the same offender).

3.4 If the business decides to make an ISB: What next?

If the business decides that they want to make an ISB, the police can use the same form as for the witness statement (form MG11).

Before taking the ISB, the police need to include a declaration for the business representative to sign. The declaration should be something along these lines:

The Impact Statement for Businesses scheme has been explained to me. What follows is what I wish to say in connection with this matter. I understand that what I say may be used in various ways and that it may be disclosed to the defence.

The business should be made aware that if they choose not to make a statement at the outset of proceedings, they are entitled to make one later but the statement must be received before the case goes to court because in some instances the case may be dealt with by the courts very quickly.

Once the statement is signed it forms part of the case papers so if the case goes to court, the ISB will be sent to the defendant's solicitor. However, the contact details of the nominated representative will not be shared with the defence.

The police should inform the business that the court or the defence could ask the business representative questions about the content of the ISB in order to clarify or challenge certain points. The court may also decide to read part of the ISB aloud. This means the ISB could be reported in the media.

Some businesses might not want to make an ISB about how the crime has affected them. This is perfectly acceptable and you should not draw any conclusions if they don't.

The police must ensure that the completed statement, once received, is forwarded to the AGs who will bring the statement to the attention of the court.