

How long will the appeal process take?

This depends on the issues involved and how much time the prosecution and the convicted person's lawyer need to prepare their case to support or defend against the appeal. In some cases, the appeal process can take a long time, but VIA will keep you informed of progress.

How many hearings will there be?

If the trial was held under summary proceedings (without a jury), there will be one hearing at which the appeal is considered. If the trial involved solemn procedure (with a jury), a procedural hearing will be held first to check if the prosecution and defence lawyers are ready to proceed. The next stage will then be a full hearing of the appeal.

Can I attend appeal hearings?

Appeal hearings are different from a trial – there are no witnesses and the appeal is based on a review of the trial papers and other legal issues. Almost all appeal hearings are held in the Appeal Court in Edinburgh. You can attend and VIA will keep you informed of the appeal hearing date.

You will want to be aware that the accused might also be at the hearing.

Procedural hearings are held simply to ensure that both parties are ready for the full appeal hearing, and can be postponed at short notice. VIA will keep you informed of developments.

Support

Victim Support Scotland provides practical and emotional support to victims of crime. For details of local services, call 0845 603 9213 during office hours or 0845 30 30 900 in the evenings or at weekends. You can also look at the website www.victimsupportsco.org.uk

The **Witness Service** provides emotional and practical support to all victims and witnesses, and their family and friends, when attending court.

For local Witness Service details, please contact Victim Support Scotland, ask VIA or contact the court at which the appeal is to be heard.

VIA may also be able to put you in touch with other support organisations in your local area.

About VIA

Victim Information and Advice (VIA) is part of the Crown Office and Procurator Fiscal Service. VIA staff are not prosecutors. Our job is to assist victims, witnesses and, in certain cases, bereaved nearest relatives. The leaflet *VIA – How we can help* explains more about what we do.

Further Information

Please contact your local VIA office at the telephone number on the enclosed letter if you would like any further information or if there is anything you are unsure about.

Alternatively contact our Enquiry Point by telephone on 01389 739557

or visit our web site at www.copfs.gov.uk

information
About appeals



Victim Information and Advice

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Please contact VIA if you would like this document in another language, large print, audio, Braille or another format. We welcome calls through RNID Text Relay prefix 18001.

Introduction

Victim Information and Advice (VIA) has given you this leaflet because you are a victim of crime, or a bereaved nearest relative of a victim. Someone was convicted of the crime and an appeal has now been made in the case.

This leaflet tells you about the different types of appeals and what is involved in the appeals procedure. It answers questions victims and their families often ask.

Who can appeal?

Appeals can be made by the convicted person or by the prosecution.

A convicted person can appeal against their conviction or their sentence or both if they were found guilty after a trial. If they pled guilty, they can appeal against their sentence.

Prosecution appeals can only be made in very limited circumstances, and so do not happen often. The prosecution can:-

- appeal against an acquittal ("not guilty" or "not" proven verdict) but only in summary cases (where there has been no jury). And this can only be on a point of law.
- appeal against sentence, but only where the sentence is regarded as "unduly lenient".

What is an unduly lenient sentence?

A sentence is regarded as unduly lenient if it falls outside the normal range of sentences the judge could have considered appropriate, taking account of all the relevant factors. The prosecution cannot challenge a sentence just because they think it is not severe enough.

Can I appeal if I am not happy with a verdict or sentence?

No, only the convicted person or the prosecution can make an appeal. You can talk to VIA about how you feel and you can ask for a meeting with the fiscal or trial prosecutor to find out more about what happened and, if possible, the reasons for it.

How quickly must appeals be made?

The convicted person must lodge an appeal within 7 days of the court's decision if the trial was held in front of a judge but no jury (called summary proceedings). If the trial was held in front of a judge and a jury (solemn proceedings), the convicted person must lodge an appeal against sentence within 14 days of the court's decision.

If the convicted person wishes to appeal against conviction and sentence they must give written notice of their intention to appeal to the High Court within 14 days of the court's decision. An appeal must be lodged within 6 weeks of this notice.

The time limit for the prosecution to lodge an appeal (against sentence) is 4 weeks. This is the same whether the trial was held under summary or solemn proceedings.

What will I be told?

VIA will let you know if there is an appeal in the case.

If the appeal is made by the prosecution, this will be because the sentence is regarded as unduly lenient. If the appeal is made by the convicted person, VIA staff can tell you if it is against the conviction, sentence or both. But they cannot tell you the exact reasons for the appeal.

A person given a prison sentence can apply for bail (interim liberation) while their appeal is considered. VIA will tell you if bail is granted or not and, if so, about any special conditions that apply. You should contact the police if you have any concerns about intimidation or safety.

VIA will keep you informed about the progress of the appeal and its outcome.

Who decides if an appeal is successful?

The judge involved in the original verdict and/or sentence is not involved in the appeal.

A single judge decides whether an appeal by a convicted person can go forward to a full hearing (prosecution appeals do not need to go through this stage).

If this is refused, an appeal can be made against the judge's decision. This must be lodged within 14 days.

A panel of three judges (two in the case of an appeal against sentence) will review whether to allow the appeal to go forward.

The same number of judges sitting in the High Court in Edinburgh hear the full appeal.

Possible outcomes of an appeal?

The judges may refuse an appeal or may allow it in full or part.

If the appeal is refused, the original decision(s) of the court will stand. If the convicted person was given a custodial sentence, they will be sent back to prison.

If the appeal is allowed in full, the court may order a retrial or may acquit (free) the accused. If the appeal is allowed in part, this may be for a variety of reasons. The VIA Officer should be able to explain or find out more.

If the accused pled guilty and appealed against a custodial sentence, the court can impose a higher or lower sentence, or confirm the original sentence.

If a prosecution appeal is granted against an unduly lenient sentence, a new, longer sentence will be given to the convicted person. If a prosecution appeal is not granted, the original sentence will stand.