

Prisons and Courts Bill

Automatic online convictions and standard statutory penalty

Introduction

1. Around half of all cases heard in the magistrates' courts in England and Wales are summary-only, non-imprisonable offences where there is no identifiable victim. Many defendants in these cases already choose to enter their plea in writing by post or online. In eligible cases defendants can also choose to have their case dealt with by a single magistrate under the Single Justice Procedure (SJP), which means they do not have to attend a hearing in court.
2. The Government's response to its consultation on Transforming Justice sets out its intention to proceed with the automatic online conviction and standard statutory penalty procedure, which is a new means for dealing with certain specified summary-only non-imprisonable offences, that will ensure that people who plead guilty to the least serious offences can be convicted, sentenced, and can pay their fines quickly online, freeing up the criminal courts to focus on supporting cases with victims.
3. This procedure means that, if a case is selected as appropriate by a prosecutor and the defendant wishes to plead guilty, they may decide to have their entire case resolved online without the involvement of the court. An example would be where a first time offender has admitted to travelling on a train without purchasing a ticket. Using a more proportionate approach for dealing with these cases will allow courts to focus resources on contested or more complex cases and help to create a straightforward, efficient court system that works for everyone.
4. Certain specified summary-only, non-imprisonable offences will be eligible, in appropriate cases, for a new automatic online conviction and statutory standard penalty procedure. Eligible offences will be specified by Order by the Secretary of State and will need to be agreed by Parliament. The Government currently plans to specify the following offences in the first piece of secondary legislation under these powers: failure to produce a ticket for travel on a train; failure to produce a ticket for travel on a tram; and fishing with an unlicensed rod and line.

What is the current position?

5. Eligible cases involving summary-only, non-imprisonable offences where the person being charged is over 18 may proceed by way of the SJP if the defendant wishes them to. This means that the case is dealt with "on the papers" by a single magistrate, supported by a legal advisor, who considers the evidence and any written submissions from the defence and prosecution in their chambers. There is no need for a hearing, so parties to a case can, to a much greater extent, arrange their interactions with the court around their own personal timetable.
6. Under the SJP, penalties are set in the usual way, on the basis of a defendant's means and on sentencing guidelines where they are available. Any information offered as mitigation can be taken into account as well as any information that may indicate the offence is aggravated in some way. The SJP also allows for prosecutors' costs and compensation to be altered should the magistrate see fit.

7. The SJP enables cases to be dealt with far quicker than if a hearing were to be held, and saves HMCTS and other parties in a case from wasting time and resources on arranging hearings where defendants fail to attend and trials go ahead in their absence.

What are the proposed changes?

8. The Government proposes to introduce legislation which will mean that:
 - For cases to be specified as eligible for this new procedure they will need to be summary non-imprisonable offences.
 - Additionally, the Government intends that, as a matter of policy, specified offences should be relatively straightforward and simple to prove, with no complex grounds and no potential for the court to exercise significant sentencing discretion. There should also be no likelihood that the court would impose any ancillary order, such as disqualification from driving or a parenting order.
 - Cases which prosecutors identify as being suitable either for the SJP or the new automatic online conviction process, will be commenced by the issuing of a written charge accompanied by a new type of notice called a written procedure notice, which will replace the current single justice procedure notice. The notice will give the defendant a date by which to respond in writing.
 - One way that defendants will be able to submit that response is by logging on to an online system. Where the defendant indicates a desire to plead guilty and the case has been identified as appropriate by the prosecutor for the automatic online conviction procedure, the defendant will then be asked a series of questions by the online system. Depending on the answers that they give to the questions they may then be offered the option of accepting an immediate conviction and pre-determined standard penalty, which will be imposed by way of an automated online process, without the involvement of a magistrate.
 - The penalty will be of a standard amount specified in an Order made by the Secretary of State, rather than based on a defendant's means. Relevant factors in setting the fine level for each offence may be the overall average of fines imposed for the offence, sentencing guidelines published by the Sentencing Council and current sentencing practice.
 - Before choosing whether to accept the automatic online conviction option, the defendant will be provided with all the information required to make an informed decision. This includes information about the potential consequences of accepting this option, such as the disclosure regime for the conviction and the amount of the penalty applicable.
 - If a defendant wishes to plead not guilty, or otherwise decides that they wish to have a hearing in a traditional courtroom or their case looked at by a magistrate by way of the SJP, they can indicate their wishes and the current arrangements will apply.
 - Magistrates' courts are granted a power to set aside an automated conviction and the associated penalty if for any reason they consider it to be unjust.