

How To Get Your Case Reopened in Magistrates Court

Reopening a Case in the Magistrates Court

The only standard practice method of setting aside a conviction is to appeal to the Crown Court, or if you were not aware that proceedings were happening you can make a "statutory declaration".

Under Section 142 of the Magistrates Court Act 1980, magistrates have the authority to get your case reopened in order to rectify an error.

This might be used if you have missed a stage in the case proceedings, or if you have been found guilty and convicted in your absence.

Magistrates are required to act on proper judicial grounds in deciding if it is the interests of Justice for the case to be re-opened to allow for the error or mistake to be amended. This is a general power to amend errors and mistakes.

As soon as you become aware that a mistake has been made you should make an application as a matter of urgency. **The less delay in making an application under Section 142 the more likely it is to be successful.**

If you wish to request the Magistrates to use their powers under Section 142 to re-open your case you will need to speak to the Court Listings Department at your local Magistrates Court so that you can attend Court and make an application.

There isn't an application form for the request, instead you will go before the Magistrates and outline the circumstances of the mistake that you believe has been made. This is your opportunity to persuade the Court that they should re-open the case in the interests of Justice.

How To Make A Statutory Declaration

Making a Statutory Declaration

We are often asked how do you go about making a Statutory Declaration at the Magistrates' Court? This is normally in relation to persons who have been convicted of an offence, e.g. fare evasion, Obstruction of the Highway etc., in their absence by a Magistrates Court. It normally transpires that this has happened due to being unaware of the prosecution case against them due to not receiving the Summons/Postal Requisition/Single Justice Procedure Notice requiring their attendance at Court. Non-receipt of the prosecution notification could be due to an extremely poor postal service to their home address or they have moved addresses or their identity is being misused by another unlawfully.

When this happens you can either make an application for the case to be re-opened under [Section 142 of the Magistrates' Courts Act](#) or you can ask the Court to hear a Statutory Declaration.

Allowing you to make an application to re-open a case is at the Magistrates discretion.

Making a Statutory Declaration within 21 days of finding out that you have been convicted of an offence without your knowledge is not subject to the discretion of the Magistrates. The Magistrates can refuse to allow you to make a Statutory Declaration more than 21 days after you have found out about the conviction but they cannot refuse you the opportunity to make a Statutory Declaration within that period.

You have to swear a declaration on oath before the Magistrates that you are telling the truth and you will be warned about the offence of perjury. You should take this warning seriously as perjury is a serious offence and you may face a prison sentence if it is found that you are lying on oath.

If you find out that you have been convicted of an offence without realising, then you have to act fast. Each case depends on its individual circumstances and if this has happened to you then you should seek independent and specific legal advice relevant to the facts of your case.

Independent Legal Advice may be obtain from the Citizens Advice <https://www.citizensadvice.org.uk/> or a Solicitor, help finding a suitable Solicitor is available from the Law Society <http://www.lawsociety.org.uk/for-the-public/faqs/>

Making a Statutory Declaration sets aside the conviction. The Magistrates can then either re-list the case, based on an indication from you that it is your intention to plead not guilty to the original matter. If the Court adopts this approach, then your case will simply be adjourned to a new date for you to attend for trial.

Sometimes when you make a Statutory Declaration, the Court will simply accept that declaration and send you on your way. This does not mean that the matter is over and done with. The Court notifies Transport for London (TfL) Prosecution Service the Statutory Declaration has been made and the vast majority of the time the TfL Prosecution Service will lay in fresh information for the original offence and the proceedings will start over again. You will then receive a Summons and you will have to attend and indicate whether or not you plead guilty or not guilty. We have had many cases in the past where people have made Statutory Declarations because they did not receive the Summons and have not notified the Court of their up to date address and then proceedings have been re-issued to their old incorrect address.

We have had a number of people who have had to go through the Statutory Declaration exercise on a number of occasions in relation to the same case.

When you make a Statutory Declaration, the limitation period (in most TfL prosecuted offences is normally 6 months) disappears. Therefore the Prosecution are allowed to instigate fresh offence proceedings even though it is more than 6 months from the original offence.

Help/Advice

If you need help making a Statutory Declaration or you are worried about the proceedings to which the Statutory Declaration relates, then please seek Independent Legal Advice which may be obtained from Citizens Advice <https://www.citizensadvice.org.uk/> or a Solicitor. Help finding a Solicitor is available from the Law Society <http://www.lawsociety.org.uk/for-the-public/faqs/>