A guide for victims of rape and serious sexual assault

What happens when a case comes to the CPS

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What you need to know first

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What you need to know first

The CPS: who we are and what we do

At the Crown Prosecution Service, we're responsible for prosecuting criminal cases in England and Wales. In cases of rape or serious sexual assault this means that we decide when a suspect can be charged with a criminal offence and we present the case against them in court.

When you report a rape or a serious sexual assault to the police they will carry out an investigation. This means that they'll look for all the evidence they can to understand what happened.

The police will record your description of what happened – this is called your witness statement. As part of their investigation they will also take statements from anyone else who saw what happened or who can provide information to help the investigation. This includes a police interview with the person, or people, that you've reported raping or assaulting you – at this stage they are called the suspect(s).

The police investigation will also involve looking for other types of evidence like medical evidence, CCTV evidence or digital evidence such as text messages or social media posts. If the police need to collect evidence from your devices they will ask for your consent to do this. You can read more about this in our section on using digital evidence which you can find on page 11.

Once the police believe they have enough evidence they will pass the case to us at the CPS and ask us to review the evidence and consider whether we can bring a prosecution – this means charging the suspect with a criminal offence and bringing them to court.

We make this decision by applying the two-stage test set out in our Code for Crown Prosecutors which you can find at **cps.gov.uk/publication/code-crown-prosecutors**. You can read more about this in the section on making our decision which you can find on page 14.

We don't investigate crimes and we can't review a case if it isn't sent to us by the police.

However, in cases of rape or serious sexual assault we offer the police 'early advice'. This means that we work with them as early as possible to advise them on what kind of evidence to look for to help them build the case. Working together helps us to build strong cases as quickly and effectively as possible.

Our commitment to victims of rape and serious sexual assault

Rape and serious sexual assault are devastating crimes and our prosecutors see every day the lasting impact they have on victims.

We know that going through the criminal justice process can sometimes feel like it's adding extra challenges during your recovery but we want to make things as straightforward for you as possible. We've made a commitment to victims of rape and serious sexual offences, which explains how we will handle your case, what you can expect from us and what your rights are. This can be found at **cps.gov.uk/rasso-commitment**.

All rape and serious sexual offence cases are reviewed by our specialist 'rape and serious sexual offences' (RASSO) prosecutors. They are specially trained to understand the complexities of rape and sexual offences cases, including how trauma may have impacted your behaviour during and after the offence and how challenging your recovery may be.

Our prosecutors are also trained on how to challenge myths and stereotypes that can affect people's thinking on rape and sexual assault. For example, it is false that a victim has to say 'no' for it to be rape – in fact many victims freeze and there is no typical response to rape. We've produced guidance to help them identify and challenge these myths if they are raised by anyone at any point in the case. This can be found at **cps.gov.uk/legal-guidance/rape-and-sexual-offences-annex-tackling-rape-myths-and-stereotypes**.

Sometimes the incident you've reported to the police may have happened a long time ago. We'll treat these cases in the same way as we would any other case and there's no time limit on how long after the offence you can report the crime although the offences that we can charge someone with may be different.

You can find out more about how we prosecute these cases on **cps.gov.uk/about-cps/how-we-prosecute-rape**. It includes videos from some of our prosecutors explaining how they've supported victims and worked with our criminal justice partners to bring complicated cases to court.

Our Prosecutor's pledge also sets out what you can expect from us as a victim of crime. For more information, please visit **cps.gov.uk/prosecutors-pledge**.

The Victims' code sets out what you can expect from all the agencies across the criminal justice system. You can read the code at **gov.uk/victims-code**.

Who will keep you updated

The police will keep you informed with what's happening in your case at each stage – including if or when you may need to attend court.

The police will assign an officer to your case as your point of contact when you report the incident – this person might be referred to the Officer in charge or 'OIC' for short. They will discuss with you how and when they will be in touch so you can agree what works for you. They'll also tell you how to get in contact with them if you have questions at any point.

If you have an Independent Sexual Violence Adviser (ISVA) they can support you in your contact with the police and provide you with the updates directly if you'd prefer that. You can find out more about ISVAs in our section on what support is available to help you.

Your right to remain anonymous

As a victim of a sexual offence you are automatically entitled to lifelong anonymity. This means that it's against the law for the media, or anyone else, to report your name. This includes sharing your name on social media.

If you become aware at any point that your identity has been shared online or published in the media, you can report this to the police and they will take action.

What support is available to help you

What support is available to help you

Counselling and therapy

There are specialist services that provide counselling and therapy for victims of rape and serious sexual assault. You can find more information from the following organisations:

- **1 in 6** - 1in6.uk
- **Survivors UK** - survivorsuk.org
- **Safeline** - safeline.org.uk
- **Rape Crisis** - rapecrisis.org.uk

You can also access counselling and other psychological therapies from the NHS by visiting **nhs.uk/service-search/find-a-psychological-therapies-service**.

You should not delay therapy or counselling for any reason connected with a criminal investigation or prosecution. If you feel it would help it's important to access it as early as possible.

Independent Sexual Violence Advisers

Independent Sexual Violence Advisers (also called ISVAs) can provide professional support, advice and help for victims of sexual violence, whether you report to the police or not. If you do report the incident to the police, your adviser can support you through the criminal justice process including accompanying you on the day of trial or a pre-trial court visit. There are three national umbrella groups who provide ISVA services:

- **The Survivors Trust** - thesurvivorstrust.org/independent-sexual-violence-advisers
- **Rape Crisis** - rapecrisis.org.uk/get-help/looking-for-information/rape-crisis-services/advocacy-isvas
- **Male Survivors Partnership** - malesurvivor.co.uk

You can contact any of these organisations to find out more about ISVA services and to request an ISVA. You can also ask the police to refer you to an ISVA service.

The Witness Service

The Witness Service, which is run by Citizens Advice, can help you to understand what to expect at court by offering you pre-trial support and a visit to the court in advance of the day. This means they will show you around a court and explain what will happen on the day.

They will also be there to support you on the day of trial and can come with you into the courtroom if you'd find that helpful. The police can refer you to the Witness Service or you can request support from them yourself by filling in their short form at **citizensadvice.org.uk/witness**.

In London, pre-trial support is provided by Victim Support. Further information on the support they offer can be found at **victimsupport.org.uk**.

Other specialist support

There are other specialist organisations that provide support to victims of sexual violence and abuse.

You can find out more on the Ministry of Justice's Victim and Witness Information website **victimandwitnessinformation.org.uk** and on the sexual violence and abuse support page: **gov.uk/government/publications/coronavirus-covid-19-support-for-victims-of-sexual-violence-and-abuse**.

Your rights as a victim

You can read more about the rights you have as a victim in the Victims' Code published by the Ministry of Justice – **gov.uk/victims-code**. It sets out the minimum standard of support that criminal justice agencies must provide to victims.

The Victims' Commissioner has also created a Victims' journey on her website which explains what happens at different stages of the process and your rights under the Victim's Code. This can be found at **victimscommissioner.org.uk/victims-journey**.

Support to give your evidence

If your case goes to trial, there is support available to help you give your evidence. You can read more about this support in the section Support to give your evidence which you can find on page 29.

How we work with the police as they build their case

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How we work with the police as they build their case

In cases of rape or serious sexual assault we offer the police 'early advice'. This means that we work with them as early as possible to advise them on what kind of evidence to look for to help them build the case.

Working together helps us to build strong cases as quickly and effectively as possible.

Using digital evidence

In some cases, the police will ask to look at your digital devices, such as your mobile phone, laptop, or tablet, as part of their investigation. For example, there may be messages or photos on your device that can help to prove dates, times or other important parts of the case. This material can help us build the strongest case possible.

Before asking for your device, the police will always consider whether there is another way to gather the evidence, for example by looking at the suspect's device. In many cases, the police will discuss this with us and we will work together to make sure that we're only asking to look at your devices where it's legally necessary.

If it is necessary to gather evidence from your device, the police will ask you to sign a consent form which will explain what they will look for (and what they won't) on your device. The police will only look at information that is relevant to the case - and there are very strict rules in place around this. Every case is different, and the decision about what is relevant will depend on the unique facts in your case.

Where possible the police will consider whether they can take screenshots rather than holding on to your devices and they will always aim to return them to you as quickly as possible.

If you have any questions or concerns about how we will use your device, or about any other types of evidence we gather, you can ask your police contact and they'll be happy to answer your questions.

Your victim personal statement

If you want to you, have the right to give a victim personal statement. This is in addition to your witness statement and it's your opportunity to explain how the crime has affected you and any worries you have about the case.

You can write your victim personal statement with the police at the same time as you're providing them with your witness statement or you can add it to the case at any point before each of the court hearings.

Once you've made a statement you can't withdraw it but you can provide an updated version at any time. You should ask your police contact if you'd like to do this.

The police, the CPS and the courts will use your statement to help us understand how the crime has affected you. This will help us to build the strongest possible case and also make sure you get the support you need through the criminal justice process. The defence team will also have access to your statement as part of the material we have to share with them before the trial – you can read more about this in the section on what we need to do before the trial.

How we make a decision on what to do in your case

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How we make a decision on what to do in your case

Once the police believe they have enough evidence they will pass the case to the CPS and ask us to review the evidence and consider whether we can bring a prosecution.

If the police don't think they have enough evidence they won't pass the case to us and the suspect won't be charged with rape or serious sexual assault.

If that happens your police contact will explain why, what support is available to help you and whether there are any other steps they can take against the suspect. If the police decide not to send your case to us, you can ask the police to review that decision – this is called a Victim's Right to Review. Your police contact can let you know how to do this.

This section explains what happens when the police send the case to us including how we make our decision on what to do in each case, what will happen next if we decide to charge a suspect and what your rights are if we decide not to charge them.

Reviewing the evidence

The file that the police send to us will contain a range of evidence. This includes things like:

- A recording of your interview(s) with the police
- Your victim personal statement – if you've provided one
- Statements from any other witnesses or video recordings of interviews with them
- Any account the suspect provided during their police interview
- CCTV evidence
- Medical evidence
- Digital evidence gathered from smartphones, tablets or computer downloads

When we review the evidence in cases of rape or serious sexual assault we focus on the behaviour and actions of the suspect. This is sometimes called the 'suspect-centric' or 'offender-centric' approach.

The police file will also contain a list of all the material they've gathered as part of their investigation that doesn't form part of their evidence against the suspect. The police will tell the CPS prosecutor if any of this material could undermine the case or help the defence case if the case went to trial.

What offences could the suspect be charged with?

There are three main criminal offences which cover the crimes of rape and serious sexual assault. These are set out in the Sexual Offences Act 2003 which came into effect on 1 May 2004.

The legal definitions of these offences are:

1. Rape. This is penetration with a penis of the vagina, anus or mouth of another person without their consent and without reasonably believing that they consented.

2. Sexual Assault by Penetration. This is penetration of another person's vagina or anus with any part of the body other than the penis, or with any object, without their consent and without reasonably believing that they consented.

3. Sexual Assault. This is the intentional sexual touching of another person without their consent and without reasonably believing that they consented.

These offences mean that a person is committing an offence by engaging in any form of sexual activity without your consent or without reasonably believing that you consented. We've explained what the law says about consent in a bit more detail below.

How does the law define consent?

The law says that a person only consents to sexual activity if they agree by choice and have both:

- The freedom to make that choice

and

- The capacity to make a choice about whether or not to take part in the sexual activity at the time in question.

This means that you can't consent to sexual activity if you are pressured or forced into it in any way. It also means that you can't consent if the circumstances mean that you don't have the capacity to consent at the time. For example, someone may not have the capacity to consent if they have drunk a lot of alcohol or taken drugs.

As part of the case, we also need to prove that the defendant didn't have a 'reasonable belief' that you consented to the sexual activity. A 'reasonable' belief means that a reasonable person would have believed that you were consenting in the circumstances. In other words, it doesn't matter if the suspect says that they believed you were consenting if we can show that a reasonable person would not have believed that in the circumstances.

You don't have to have said that you didn't consent for us to make the case that a reasonable person would not have believed that you were consenting.

In some situations, the law allows us to assume that a person did not consent to sexual activity and the defendant did not 'reasonably believe' that they consented, unless the defendant can show otherwise. This includes situations where the victim was unconscious, drugged, abducted or had been threatened with violence.

Non-recent sexual offences

There's no time limit on how long after the offence you can report the crime. The key difference is that if the offence took place before 1 May 2004 then we need to use different legislation to prosecute it – this may mean that the offences that we can charge someone with are different.

The Sexual Offences Act 1956 is the main piece of legislation covering sexual offences that took place before 1 May 2004. One key difference is that this legislation didn't state that the defendant had to have a 'reasonable' belief that you were consenting. This means that for these cases there is a defence if the defendant believed you were consenting, even if the belief was unreasonable. We'll build our case by looking at the actions of the defendant before, during and after the incident to try and prove that they did not believe you were consenting.

If you have any questions about non-recent offences you can speak to your police contact who can explain this to you in more detail.

Making our decision

All rape and serious sexual offence cases are reviewed by our specialist 'rape and serious sexual offences' (RASSO) prosecutors. They are specially trained to understand the complexities of these types of cases, including the different kinds of impact that this may have had on you as the victim.

To decide whether or not to charge the suspect in a case our prosecutors apply the two-stage test set out in our Code for Crown Prosecutors that can be found at **cps.gov.uk/publication/code-crown-prosecutors**.

The first stage is the 'evidential stage'. At this stage our prosecutor reviews all the evidence provided by the police and asks themself the question 'Is there enough evidence against the suspect to provide a realistic prospect of conviction?' That means, having heard the evidence, is a court more likely than not to find the defendant guilty?

To answer this question they must consider whether the evidence they can use in court is reliable and credible and whether there is any other material that might undermine that evidence.

This test is different to the test applied at trial. When a case gets to trial the jury must be sure that a defendant is guilty in order to convict them. At the CPS we don't need to be sure that someone is guilty to take the case forward – in fact we don't make any judgement on whether someone is guilty or not.

If the case doesn't pass this first stage we can't move onto the next stage, no matter how serious or sensitive the case may be.

The second stage is the 'public interest test'. At this stage the CPS prosecutor again reviews all the evidence provided by the police and asks themselves the question 'Is it in the public interest to prosecute?'.

To answer this question, they must consider things like the seriousness of the offence, the harm caused to the victim, the impact on communities and the age and maturity of the suspect at the time of the offence.

A prosecution will go ahead unless a prosecutor decides that public interest factors against a prosecution outweigh those in favour of a prosecution.

In cases of rape or serious sexual assault, the seriousness of the offence means that where there is enough evidence a prosecution will almost always go ahead. A decision not to prosecute these cases for public interest reasons is very rare and the prosecutor would need to provide clear reasons explaining their decision.

You can read more about our two-stage test at **cps.gov.uk/publication/code-crown-prosecutors.**

How long does it take for us to make our decision?

Every case is different and there is no single answer to this question. Some cases may be straightforward while others will have a lot of evidence that we need to review or legal issues we need to resolve.

We know how difficult it can be while you're waiting for this decision so will always do our best to review the evidence quickly and efficiently so that you aren't waiting longer than is needed. If you have any questions about the progress of your case you can get in touch with your police contact and they'll be happy to help.

If we decide to charge a suspect

If our prosecutor decides that our two-stage test has been met, we will tell the police what offence(s) they can charge the suspect with.

The police will then charge the suspect. At this point the suspect becomes known as the defendant.

In some cases, for example, if the police believe there is a risk the defendant might commit another offence or fail to attend court, the defendant may be 'remanded in custody'. This means they will be held by the police, usually in a police cell, until they have appeared before a judge when they may request to be bailed.

The police will let you know that the defendant has been charged and whether they have been remanded in custody. If the defendant has not been remanded in custody, the police will release them ahead of the first court hearing. If that happens the police will let you know whether there are any conditions in place that the defendant must follow, for example staying away from you or a particular place. You can read more about this in our

section on bail which can be found on page 20. The police will also let you know when the first court hearing will be.

The next step is the first hearing of the case which takes place in the magistrates' court which can be found on page 20.

If we need more evidence to make a decision

If our prosecutor decides that there is not enough evidence to charge the suspect at this time they will then consider whether there is any more evidence the police could look for to make the case stronger. If we believe that more police investigation could help, we will ask the police to continue their investigation and provide us with any more evidence they can find.

If the police find more evidence, the case can then come back to us and we will make a new decision on whether or not to prosecute the suspect.

The police will keep you up to date with what's happening in the case if they need to look for more evidence.

If we decide not to charge – and your right to review

If our prosecutor decides the case doesn't pass our two-stage test, and there is no further evidence that the police could look for that would change this, they can't charge the suspect. This is also called a decision to advise 'no further action' (NFA).

If we decide not to prosecute the case we will explain the reasons why and you have a right to ask us to look at our decision again. This is called the 'Victims' Right to Review'. If you request a review a new prosecutor will review all the evidence and apply our two-stage test again to come to their own decision in the case. They may decide that the legal test is met and the suspect can be charged or they may agree with the decision that there should be no further action.

Once they've completed this review, they will write to you to explain their decision. They will also offer to speak to you over the phone or in person to discuss the case if you would find that helpful.

You can find out more on our Victims' Right to Review page **cps.gov.uk/legal-guidance/victims-right-review-scheme**.

After a defendant is charged:

The first hearing in the magistrates' court

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After a defendant is charged - The first hearing in the magistrates' court

The magistrates' court

There are different types courts in England and Wales. All criminal cases start with a first hearing in the magistrates' court.

In magistrates' courts decisions are made by either a panel of magistrates or a district judge.

Magistrates are volunteers who have received training to take up this role but they aren't legal professionals. They are supported a legal advisor who is a trained solicitor or barrister whose role is to provide legal advice and guidance to the magistrates.

District judges are trained legal professionals who will have practiced as a solicitor or barrister before becoming a judge.

Deciding where a case will be heard

The first hearing is sometimes used to decide whether a case should stay in the magistrates' court or should be sent to the Crown Court. Cases of rape and serious sexual assault are so serious that the magistrates' court will always send them to the Crown Court to be heard in front of a jury.

Rape and serious sexual assault cases involving defendants who are under 18 (who aren't jointly charged with an adult) will be sent first to the youth court rather than the magistrates' court. The magistrates or District Judge in the youth court will then decide whether the case should remain there or whether it should be sent to the Crown court. Usually these cases will stay in the youth court as there are different rules that apply for cases involving youth offenders.

Bail

At the first hearing, the magistrates' court will decide whether the defendant should be released on bail.

Bail is when it is decided that the defendant does not need to be kept in prison before the trial. If a defendant is released on bail they are still required to come to court at each stage of the process but they won't be held in prison between hearings.

If a defendant is not released on bail, they will be held in custody (in prison) until the trial.

The CPS prosecutor and the defence lawyer will present arguments to the court about whether the defendant should be granted bail. It is then up to the court to make this decision.

If a defendant is released on bail the court will often set out certain conditions that the defendant must meet to be allowed to remain on bail. The police will explain to you whether there are any conditions the defendant must follow and what they mean in practice. Bail conditions could include things like the defendant handing over their passport or being told not to contact you or go to the area where you live.

If a defendant breaks any of these conditions they may be remanded in custody (sent to prison) before the trial. If you have any information that suggests a defendant has broken one of these conditions or if you have any concerns at all you should get in touch with the police as soon as possible.

The police will keep you updated as to what happens at this hearing.

For an adult defendant the next step is the first hearing of the case in the Crown Court which you can read more about on page 23.

The first hearing in the Crown Court:

The Plea and trial preparation hearing

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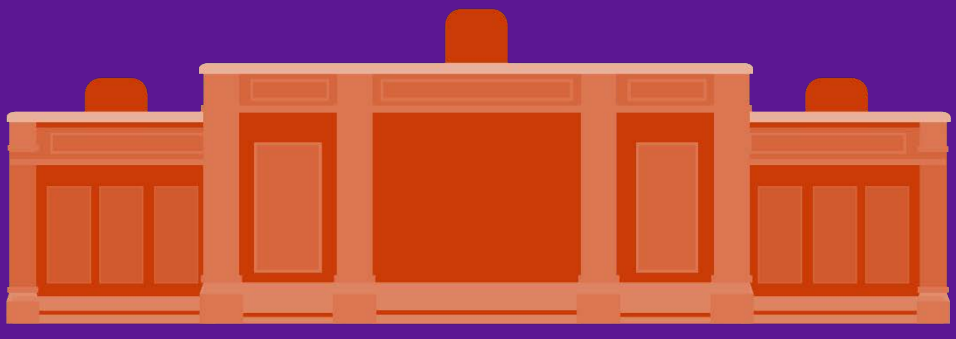

The first hearing in the Crown Court - The Plea and trial preparation hearing

The Crown Court

The Crown Court deals with the most serious criminal cases. Each case is overseen by a judge who is responsible for setting out the timetable in the case, making a judgement on any legal questions (such as whether certain types of evidence can be used) and sentencing the defendant if they are convicted.

If a case goes to trial it will be heard by a jury. The jury is made up of 12 members of the public who are selected randomly from the electoral roll. In a Crown Court the jury decides whether the defendant is 'guilty' or 'not guilty'.

The first hearing at Crown Court is called the 'Plea and trial preparation hearing' or PTPH.

At this hearing the court clerk will read out the list of offences the defendant has been charged with (the indictment) and asks the defendant to plead 'guilty' or 'not guilty'. This process is called arraignment.

If the defendant pleads 'guilty' to all the charges

If the defendant pleads 'guilty' to all the charges, the judge can either sentence the defendant straight away or they can postpone (adjourn) the sentencing hearing to ask for more information to help them decide what the sentence should be.

This can include a 'pre-sentencing' report, written by the probation service, which provides an independent assessment of the offender and the risks they pose.

We will also provide the court with your 'victim personal statement' if you have written one. The police will ask you if you'd like to write one during the investigation – this is your opportunity to explain how the crime has impacted you.

If you would like to read your 'victim personal statement' out loud to the court, then we can apply to the court for you to do this. Otherwise the prosecutor may read it out loud or the judge will read it for themselves.

The judge will then use that information to decide what sentence the defendant will receive in line with the sentencing guidelines for the offence they've been convicted of.

Sentencing guidelines are set by the sentencing council in line with UK law. You can read more about sentencing at **sentencingcouncil.org.uk/sentencing-and-the-council**.

If the defendant pleads 'guilty' to some of the charges

If the defendant pleads 'guilty' to some of the charges but 'not guilty' to others, the CPS prosecutor will have to decide whether or not to accept the 'guilty' pleas.

They also need to decide what action to take on the charges to which the defendant has pleaded 'not guilty'.

The prosecutor has two options:

1. They can either 'offer no evidence' for the charges to which the defendant has pleaded 'not guilty' or they can ask for these charges to 'lie on file'. If we offer no evidence this means that the court has accepted a 'not guilty' verdict for those charges and we cannot take further action on them. If we think the charges should lie on file we need to ask for the judge's permission to do this. Charges that lie on file could technically be restarted at a later date but this is very rare. The judge will then sentence the defendant only for the charges to which the defendant has pleaded 'guilty'.

Or

2. They can ask for the charges to which the defendant has pleaded 'not guilty' be listed for trial. The defendant won't be sentenced for any charges until after the trial has happened.

To make this decision the prosecutor has to consider a number of factors which are set out in the Code for Crown Prosecutors (**cps.gov.uk/publication/code-crown-prosecutors**) and the Attorney General's guidance on accepting pleas (**gov.uk/guidance/the-acceptance-of-pleas-and-the-prosecutors-role-in-the-sentencing-exercise**).

This includes whether the court would be able to give the defendant a sentence that reflects the seriousness of the crimes we have charged them with. For example, if a defendant pleaded 'guilty' to a more minor offence like theft but 'not guilty' to a more serious offence like rape then the sentence the court could give them would not reflect the seriousness of the crimes we charged them with. If we don't think the court would be able to give the defendant an appropriate sentence then we will ask for the remaining charges to be listed for trial.

Where possible we will take your views as the victim into account to help us decide whether it is in the public interest to accept the plea.

If the defendant pleads 'not guilty' to all of the charges

If the defendant pleads 'not guilty' to all the charges the judge will set a date for the trial.

What we need to do before the trial

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- Preparing the evidence and sharing our case
- Sharing extra material with the defence – disclosure
- How we protect your privacy
- Asking for permission to use certain types of evidence
- Reviewing new evidence
- Hearings to check on the progress of the case - ‘Administrative hearings’

What we need to do before the trial

This section explains what our prosecutors need to do before the trial. You can find more information about what support is available to help you give your evidence on page 30 and what you'll need to do before the trial on page 34.

Preparing the evidence and sharing our case

Before the trial starts, we need to prepare our case by gathering together all the evidence that we want to use in the trial.

We then have a date, set by the judge, by which we have to share all this information with the judge and the defence team. This is called 'serving the case'.

This is a chance for the defence team to understand the strength of the case that the police have built against the defendant.

In some cases, this evidence might persuade a defendant to change their plea to 'guilty' once they've seen how strong the case is. That would mean that we don't have to hold the trial, you usually wouldn't have to give evidence in court and the judge could move on to the sentencing stage.

Sharing extra material with the defence - disclosure

We also need to share a list of all the relevant material that we won't be using with the defendant's lawyers. This will include anything which is relevant to the offence, the defendant or the circumstances of the case but that we don't need to use to present the best case in court. This list is called the schedule of unused material.

Once we've put this list together our prosecutor will check to see if any of this extra material might reasonably undermine our case or support the defence case – in other words any information which might help the defence team. This is called the 'disclosure test'.

If any of the material does meet this test then we will make copies of it, remove any sensitive or personal information that isn't needed and then share only the necessary information with the defence team.

If we don't think material meets the disclosure test then we won't share it with them and they'll only see a short description of it on the schedule of unused material.

If they think it would help their case the defendant's lawyers can ask to see the extra material on that list that we haven't shared. If we don't think it meets the disclosure test then we won't share it with them unless the judge decides that they should see it.

These processes are really important make sure that the trial is fair for everyone involved.

How we protect your privacy

Before we share any evidence or extra material with the defendant's lawyers, we will review it to take out any sensitive or personal information that isn't relevant to the case.

If sensitive information is relevant to the case then we will take steps to protect your privacy by making sure that the defence team only has access to the information that they absolutely need.

If you have any concerns about how images or any other private information might be used, you can speak to your police contact and they'll be happy to answer your questions.

Asking for permission to use certain types of evidence

Our prosecutor needs to apply to the court for permission to use certain types of evidence in the prosecution case.

For example, if we want to use evidence which is not directly related to the case but shows that the defendant has a history of criminal offending or other bad behaviour (bad character evidence) we would need to ask the judge for permission to do this.

The defendant's lawyer may also want to ask for permission to use certain types of evidence.

For example, in cases involving rape or other sexual offences, the judge needs to grant permission to the defence team to use evidence about your previous sexual history.

This means the defence barrister can't ask you questions about your sexual behaviour without getting permission from the judge beforehand. The judge will only grant permission to do this in very specific circumstances where the evidence would be relevant to the case.

If the judge gives the defendant's lawyers permission to ask these kinds of questions, we will let you know this in advance and answer any questions you have.

During the trial the judge will continue to monitor the questions that the defendant's barrister is asking – if at any point the judge thinks a question is inappropriate, they won't allow it to be asked. If we think a question is inappropriate, we can also object and ask the judge to stop it being asked.

Reviewing new evidence

A CPS prosecutor will review any new evidence that becomes available while they are preparing the case for trial. This could be new evidence uncovered by the police or new evidence provided by the defence team.

If new evidence means that a case can no longer go to trial or that the charges need to be changed then the CPS prosecutor will stop the trial or change the charges. If this happens

for any reason our prosecutor will contact you to explain the reasons why we've had to make this decision.

Hearings to check on the progress of the case - 'Administrative hearings'

Between the first hearing and the trial date, the judge may set dates for 'administrative hearings'.

These hearings are to check the progress of the case and make sure everything is going to be ready for trial day.

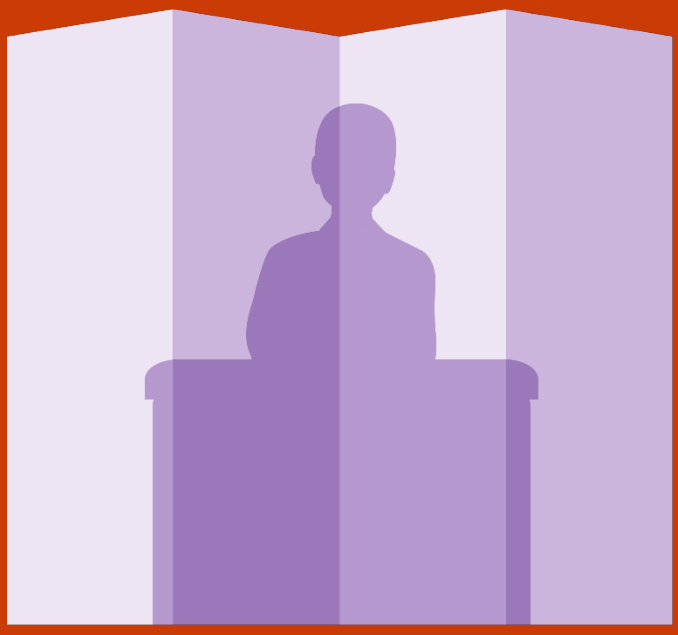
In the most complex Crown Court cases, the judge may plan a 'further trial preparation hearing'. This is because these cases are complicated, often with lots of evidence to sort through, so it can be helpful to have another opportunity to review the timetable for the trial to help make sure it can go ahead on time.

Support to give your evidence:

‘Special measures’

Contents:

- Who can access this support
- What support is available
- How you can access this support



Support to give your evidence - 'special measures'

When a case goes to trial, you will usually be asked to give evidence. This involves describing what happened to you in your own words and answering questions about it from our prosecution barrister and from the defence barrister.

This can feel daunting but there are things we can ask for to help you feel more comfortable when you give your evidence – these are called 'special measures'.

They can be put in place for how you give your evidence at trial or sometimes they can mean that you give all your evidence before the trial happens. We'll apply for these measures for you and the judge will make a decision about whether to grant them.

Special measures are there to support you if you need them but you don't have to ask for them if you don't want to.

Who can access this support

Vulnerable and intimidated victims and witnesses can ask for special measures.

Victims of rape or serious sexual assault are considered to be intimidated witnesses, so this means you are automatically entitled to ask for most special measures, if you want to have them.

Some special measures are currently only available to vulnerable victims and witnesses.

You will be classed as a vulnerable witness if you are under 18. You will also be classed as a vulnerable witness if you have a physical or mental disability or condition that would affect your ability to give your best evidence in court. You should discuss this with your police contact if you think this applies to you.

What support is available

There are two special measures that can help you give some or all of your evidence before the trial.

1. Video recorded evidence-in-chief. 'Evidence-in-chief' is your description of what happened to you. This special measure allows us to video record your evidence before the trial and play it back during trial so that you don't need to repeat all the details of the offence in court. You will still be asked additional questions by the prosecution barrister to clarify any issues and be cross-examined by the defence barrister during the trial. Sometimes you might hear people call this a 'VRI' which stands for 'Video Recorded Interview' or an 'ABE' which stands for 'Achieving Best Evidence' interview.

2. Video recorded cross-examination or re-examination. 'Cross-examination' is when the defendant's lawyers ask you questions about what happened and 're-examination' is what we call any final follow up questions that the prosecution barrister asks you. This special measure allows us to record your cross-examination and re-examination before the trial. You wouldn't have to attend the trial at all and your video-recorded evidence-in-chief and cross-examination will be played to the jury and court instead. You can read more about cross-examination and re-examination in the section 'What will I be asked?' on page 38.

This special measure isn't available, for all victims of rape and serious sexual assault right now:

a. You can access it if your trial is taking place in Kingston-upon-Thames, Leeds, Liverpool, Wood Green, Harrow Isleworth and Durham Crown Courts.

or

b. You can access it in every Crown Court if you are also considered to be a vulnerable witness.

Sometimes you might hear people call this special measure 'section 28', this is because that's the section of the law on giving evidence which explains it.

There are six special measures which can help you give evidence during the trial. The first four are available to both vulnerable and intimidated witnesses, which includes all victims of rape and serious sexual assault, and the final two are only available to vulnerable victims and witnesses.

1. Screens. Screens are usually simple curtains that we place around the witness box when you are giving evidence in court. These mean that you won't see the defendant while you give your evidence or when you're being cross-examined. Only the judge, jury and barristers can see you and you can see them.

2. Evidence by live link. This is usually a television link from a private room within the main court building but sometimes you can give evidence from another location such as a different courthouse closer to your home or a Sexual Assault Referral Centre (SARC).

   If you give evidence via live link you will be able to see whoever is asking you the questions (the barristers or the judge) but you won't be able to see anyone else in the courtroom. However, everyone in the courtroom will be able to see you, including the defendant. We can apply for screens together with the live link to prevent the defendant from seeing you, if you would find that helpful.

3. Evidence given in private. This means the courtroom is cleared of everyone who doesn't legally need to be there. If your case is likely to attract media attention, one member of the press is allowed to stay in the court but, as with every stage of the case, you have full anonymity, and they are not allowed to publish your name.

4. Removal of wigs and gowns by the judge and barristers. This is aimed at helping you to feel more comfortable by making the court seem less formal.

There are two special measures which are only available to vulnerable victims and witnesses:

5. Intermediaries. Intermediaries are people who can support you if you need help to fully understand and answer the questions you are being asked. An intermediary will check that the questions are asked in a way that means you can easily understand them. They will also help you share your answers clearly with the court.

6. Aids to Communication. Aids to communication can include things like visual-aid boards, eye-gaze software, dolls or body-outline drawings. You can use these if you have a disability that means you need support to assist you in understanding or answering questions.

How you can access this support

The police will talk to you about which special measures would help you to give your evidence.

They will let us know what special measures you've chosen and why and we will apply to the court for permission to use them. We'll explain to the judge why we think they will help you to give your best evidence.

The judge will then make a decision about what special measures to approve. The police will let you know what the judge has decided.

What you need to do before the trial

Contents:

- Re-watching your video recorded evidence
- Visiting the court
- Organising travel and expenses

What you need to do before the trial

The police will keep you up to date with how the case is progressing. They'll let you know what date the trial is expected to start and when it's likely to end. They'll also let you know if you will need to give evidence at court and what time you need to arrive.

The court will make every effort to make sure that the trial starts on time but sometimes the start of your trial can be delayed – for example if another trial is overrunning in a courtroom. The police will keep you up to date with what is happening.

Watching your video recorded evidence

Before the trial, the police will agree a time with you for you to watch your video recorded evidence. This is to give you a chance to refresh your memory before the trial starts. If you have an Independent Sexual Violence Adviser they can come with you if you'd like them to. You can also bring a friend or family member as long as they won't be a witness in the trial.

Visiting the court

The Witness Service can arrange for you to visit the court before the trial. During the visit the Witness Service team will talk you through what will happen on the day of trial and show you what the courtrooms look like to help you feel more comfortable on the day.

If you are nervous about seeing the defendant or their friends or family in the court on the day, please let the police or the Witness Service know. They may be able to arrange for you to enter the court building through a private side entrance or stagger your arrival times so you can avoid the defendant.

Once you've visited the court you may want to change any special measures that have been put in place for you. That's okay - this is very common. You'll need to let the police officer know what changes you would like to make as soon as possible. We will then apply to the judge to amend your special measures arrangements.

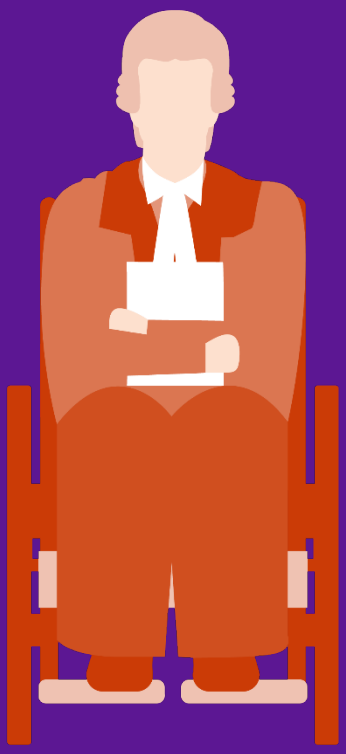
Organising travel and expenses

Please let the police know, if you need to use a taxi, train or air travel to get to the court or if you live so far away that you need overnight accommodation to make sure you can get to the court on time. The police will give us this information and our team will book your travel and/or accommodation for you.

For most other lower cost travelling expenses, it is usually easier to use a witness expenses form which we'll give to at court. You can use this form to reclaim travel expenses as well as childcare and loss of earnings up to set amounts. You can find our guidance at **cps.gov.uk/legal-guidance/witness-expenses-and-allowances**. If you have any questions or concerns about travel or expenses please let your police contact know.

The trial

Contents:



The trial

If you are being supported by an ISVA they can come with you on the day of trial.

When you arrive at court, the security guards will show you to the Witness Service waiting room. If you've arranged with the Witness Service to enter the court through a private side entrance then you should follow the instructions they've given you.

The Witness Service is run by Citizens Advice volunteers. The volunteers can explain what will happen during the day and will keep you updated with the progress of the trial. Where possible the Witness Service will try to provide separate waiting areas for prosecution and defence witnesses. Please speak to your police contact or the Witness Service if you're worried about seeing the defendant or any one else at court. You can find more information about the Witness Service at **citizensadvice.org.uk/witness**.

Before the trial starts, someone from the prosecution team will introduce themselves to you and answer any questions you have about the process and what to expect. This could be a paralegal from the CPS, a CPS prosecutor or a prosecution barrister (who will usually be an independent barrister who will present your case on behalf of the CPS).

They will also explain what will happen in the court and confirm what special measures have been put into place for you. You can find our section on special measures on page 30.

They will also talk to you about the general nature of defence case, for example whether the defendant says the sexual contact was consensual or that it didn't happen.

Who's who in a courtroom

In a Crown Court the evidence is heard by a judge and a jury. The jury is made up of 12 members of the public who are selected randomly from the electoral roll. In a Crown Court the jury decides whether the defendant is 'guilty' or 'not guilty'. If the jury finds the defendant 'guilty' the judge will then decide what sentence the defendant will receive.

If you're giving evidence in court, you'll stay in the waiting room until you're called in. You won't be able to watch the trial until after you've given your evidence.

If you aren't giving evidence in court, you'll be allowed to sit in the public gallery to watch the trial.

It's likely that the defendant's friends or family will be sitting in the public gallery too. If you don't want to sit in the same place as them or be seen by them it may be possible to arrange for you to watch the trial from somewhere else in the courtroom with the judge's permission. If this is the case, you can let the Witness Service know and they will help you to request this.

The courts service (HMCTS) have put together a short explanation of who's who in a Crown Court at **gov.uk/guidance/hmcts-whos-who-crown-court**.

The role of the defence barrister

The role of the defence barrister is different from the role of the prosecution barrister.

The role of the prosecution barrister is to prove, based on the evidence, that the defendant is guilty. By comparison the defence barrister doesn't need to prove that the defendant is innocent. Their role is to highlight any problems or holes in the prosecution's case to show the jury that they can't be sure that the defendant is guilty.

The trial process

The prosecution barrister will open the case by setting out the charges against the defendant and the general facts of the case.

Sometimes the judge and the barristers may need to discuss some legal points before the trial gets going. This is normal, so don't worry if you have to wait a bit longer than you expected for the trial to start. The Witness Service will keep you up to date with what is happening.

Your evidence

You are likely to be the main witness so you will probably be asked to give your evidence first.

How you give your evidence will depend on what special measures you have been granted by the court:

- If you are giving evidence behind a screen, it will be ready for you before you come into court.
- If you are giving evidence from a TV link within the court building, the court usher will bring you to the room when it's time for you to give your evidence.
- If you are giving evidence from a location away from the court over a video link, the court clerk will digitally 'invite' you into the courtroom at the appropriate time. Someone from the court will be there to help you with this.
- If you need an interpreter, we will have arranged for one to be there for you.

If your main evidence was video recorded, that will be played to the court first so that you don't have to go through the whole incident in full again.

You may be asked some more questions by the CPS barrister to clarify your account and then the defence barrister will have an opportunity to ask you questions too – this is called cross-examination.

Then if they need to the CPS barrister will ask you some final questions – this is called re-examination.

Listen to all the questions carefully. If you don't understand a question you can ask for the barrister to rephrase it or explain it before you answer.

Some of the questions may be difficult to answer but just focus on telling the truth. If you don't know the answer to a question or you can't remember it's okay to say that.

What you will be asked

It's the role of the defence team to put forward the defendant's version of events and to challenge what you say happened. This might be by saying that you are lying or that you are mistaken.

Some of the questions can be difficult but it's important that you just focus on telling the truth. You should listen carefully to what the defence barrister is saying and clearly answer their questions. If you disagree with something they say then you should say that.

If it's relevant to the case either the prosecution or the defence barrister might ask you about any contact you had with the defendant before and/or after the offence happened. This may include text messages or emails.

In some cases the judge may have given the defence team permission to ask you questions about your previous sexual history. The judge will only do this in specific circumstances where this is relevant to the case.

If the judge has given the defence team permission to ask those types of questions the CPS prosecutor will let you know before the trial.

During the trial the judge will listen carefully to all the questions and if they decide a question is inappropriate they won't allow it to be asked. If we think a question is inappropriate, we can also object and ask the judge to stop it being asked.

If you need to take a break at any time, you can ask the judge. This is okay and the court will understand you need to take a few minutes to yourself.

Other witnesses and the defendant's evidence

After you've given your evidence we'll then call a series of witnesses to give evidence.

These could include:

- Eye-witnesses who saw something happen.
- Police officers who can describe the evidence they've found.
- Expert witnesses who will give evidence related to their area of expertise. For example, a doctor might give evidence about any injuries you had, or a toxicologist might give evidence about alcohol or drugs that were in your bloodstream.

Our prosecution barrister will ask the witnesses questions about the evidence that supports the case. Then the defence barrister will have an opportunity to ask them questions too – this is called cross-examination.

Once the prosecution barrister has called all their witnesses, the trial swaps over and the defence barrister will call their witnesses. The CPS prosecutor will have an opportunity to ask each of the defence witnesses questions in cross-examination.

The defendant does not have to give evidence and it's quite common for a defendant to choose not to give evidence in court. If a defendant chooses not to give evidence we can't cross-examine them.

However, the transcript of the interview the defendant gave at the police station will usually be read out to the court as part of the prosecution case. The jury can then take into account what the defendant said when they were asked about the incident.

Once all the witnesses have given their evidence and been cross-examined, the CPS barrister will make a closing speech summing up all the key points of our evidence. The defence barrister will then make a closing speech pointing out where they think there are flaws in the prosecution case.

The judge will sum up the key points of the evidence and will give 'directions' to the jury about the law. This means they will explain things like what the prosecution needs to have proved for the jury to find the defendant guilty. The jury will go into a private room to discuss the evidence and decide their verdict.

The verdict and sentencing

Contents:

The verdict and sentencing

To find the defendant 'guilty' the jury must be sure that the defendant is guilty. Sometimes you'll hear this described as 'sure beyond a reasonable doubt' or 'satisfied so you are sure'.

If the jury aren't sure that the defendant is guilty then they must find them 'not guilty'.

The jury are asked by the judge to reach a unanimous verdict - that means, they should all agree on whether the defendant is 'guilty' or 'not guilty'. If they can't do that after carefully considering and discussing the evidence, the judge can allow them to reach a majority verdict of at least 10 people.

If a defendant is found 'not guilty'

If a defendant is found 'Not guilty,' the case is over and they are allowed to leave the court. If they have been held in prison during the trial, they will be released immediately.

If the defendant is found not guilty, that doesn't mean you weren't believed or that people thought you were lying. It simply means the jury couldn't be 'satisfied so they were sure' that the defendant was guilty.

If a defendant is found 'guilty'

If the defendant is found 'guilty,' the judge can either sentence the defendant straight away or they can postpone (adjourn) the sentencing hearing to ask for more information to help them decide what the sentence should be.

This can include a 'pre-sentencing' report, written by the probation service, which provides an independent assessment of the offender and the risks they pose.

We will also provide the court with your 'victim personal statement' if you have written one. The police will ask you if you'd like to write one during the investigation – this is your opportunity to explain how the crime has impacted you.

If you would like to read your 'victim personal statement' out loud to the court, then we can apply to the court for you to do this. Otherwise the prosecutor may read it out loud or the judge will read it for themselves.

If you would like to read your 'victim personal statement' to the court yourself, you are entitled to special measures to do so and we will pay for your expenses as before. You can find more information about special measures on page 30.

The judge will then use that information to decide what sentence the defendant will receive in line with the sentencing guidelines for the offence they've been convicted of.

Sentencing guidelines are set by the Sentencing Council in line with the law in England and Wales. You can read more about sentencing on their website: **sentencingcouncil.org.uk/sentencing-and-the-council**.

If the defendant has been held in prison awaiting the trial, they will usually be sent back to prison to await the sentence if it's likely that they will be given a prison sentence by the judge. Normally, any time the defendant has already spent in prison waiting for the trial will count as part of their sentence.

If you decide not to attend the sentencing hearing then the police will let you know what happened once it has finished.

If the jury fails to reach a verdict

If the jury can't reach a verdict (either 'guilty' or 'not guilty'), then the CPS prosecutor has to decide whether or not to hold another trial. This trial would have to start afresh, hearing all the evidence again, with a brand new jury.

To make that decision they'll consider our two-stage test again:

- Is there is still enough evidence to provide a realistic prospect of conviction – has anything changed during the course of the first trial and are the witnesses still willing and available to give evidence again?

- Is the trial still in the public interest – for example, would a delay until a new trial change anything and is that delay proportionate with the sentence the defendant would likely get?

The prosecutor will also take your views as the victim into account.

If we decide to go ahead with a new trial, the court will set a date for it to start.

If we decide not to go ahead with another trial we must make formal decision to offer no evidence. That means the case is stopped, the defendant will be acquitted and formally found not guilty of the offence(s).

After the trial:

Appeals

Contents:

- Appealing a conviction or a sentence the defendant believes is too long
- Appealing a sentence that is too short

After the trial – appeals

If the defendant has been found 'not guilty,' we can't appeal the verdict.

If the defendant wants to appeal their conviction or sentence

If the defendant is found 'guilty,' they can appeal against their conviction – this means they are asking for it to be overturned because they don't believe they should have been found 'guilty'.

They can also appeal against the severity of their sentence. This means they aren't challenging the fact that they've been found 'guilty' but that they believe the punishment they've been given is too harsh.

To make an appeal a defendant needs to have 'grounds' for appeal. This means they have to have a legal reason why they think the verdict is wrong. For example, if they say that the judge did not conduct the trial in a fair way or made legal mistakes. If a defendant wants to appeal, a judge from the Court of Appeal needs to agree that they have 'grounds' to appeal.

If a defendant is allowed to appeal, their case will be sent to the Court of Appeal, who can uphold the conviction, overturn the conviction so that the defendant is found not guilty or overturn the conviction and order that a new trial is held.

Appealing a sentence that is too short (unduly lenient sentences)

In certain types of cases, including rape and serious sexual assault, anyone has the right to ask for a defendant's sentence to be reviewed if they think it is unduly lenient (unreasonably low). Sometimes we will recommend that a sentence should be reviewed if we think it is unduly lenient.

The Attorney General's Office, which is a government department, is responsible for reviewing these cases. The person who wants to appeal the sentence needs to contact the Attorney General's Office within 28 calendar days of the sentencing.

If the Attorney General's Office agrees that the sentence is too short (unduly lenient) they will send the case to the Court of Appeal. The Court of Appeal will then decide whether or not to hear the case. If they hear the case, they will decide whether to keep the sentence the same or increase it.

You can read more about appealing unreasonably low sentences at **gov.uk/ask-crown-court-sentence-review**.