



## Our commitment to rape victims

If you've been a victim of rape and the case is being considered for prosecution, you're likely to have questions on what to expect. Reporting rape or sexual abuse takes tremendous courage. We realise that this will be a difficult time for you, so have provided this information to explain how we promise to handle the case, what your rights are and how you can get further help.

## Where to get help

If you're in immediate danger, call 999. If you're in danger but you can't talk on the phone, you can still make a 'silent 999' call by following the steps on the Metropolitan Police's website, available at: [www.met.police.uk/contact/af/contact-us/us/contact-us/how-to-make-a-silent-999-call/](http://www.met.police.uk/contact/af/contact-us/us/contact-us/how-to-make-a-silent-999-call/). If you're deaf or hard of hearing, you can use the police's textphone service 18000.

You can also call 101 for non-emergency enquiries. If you're deaf or hard of hearing, you can use the police's textphone service 18001 101.

You don't have to make a report to the police to receive help. If you've suffered sexual abuse at any time and wish to seek help, there are services that offer free, independent and confidential support. The Ministry of Justice has published information about where to get help, available at: [www.gov.uk/government/publications/coronavirus-covid-19-support-for-victims-of-sexual-violence-and-abuse/coronavirus-covid-19-support-for-victims-of-sexual-violence-and-abuse#where-to-get-help](http://www.gov.uk/government/publications/coronavirus-covid-19-support-for-victims-of-sexual-violence-and-abuse/coronavirus-covid-19-support-for-victims-of-sexual-violence-and-abuse#where-to-get-help).

Independent Sexual Violence Advisers (also called ISVAs) can also provide professional support, advice and help for victims of sexual violence, whether you report to the police or not. If you do report to the police, ISVAs can support you through the criminal justice process.

## The Crown Prosecution Service – our role

We are responsible for prosecuting criminal cases in England and Wales. We work closely with the police and other organisations in the criminal justice system – however, we're completely independent. Our role is to make sure the right person is prosecuted for the right offence.



If you've reported a rape or serious sexual offence, the police will investigate and gather evidence. Once they think they have enough evidence, they will contact the CPS for us to consider whether the case should be prosecuted.

## **How we review evidence and make our decisions**

If the case is referred to us by the police, we will review it. We will make sure one of our specialist rape and serious sexual offence prosecutors looks into it.

We will authorise charges against the suspect if the legal test that we must follow ('the Full Code Test') is met – that is, where there is enough evidence and a prosecution is in the public interest. We will take into account the impact the offence has had on you in making our decision. If you've been raped, the case is very likely to be prosecuted if there is enough evidence. More information about this test is contained in the Code for Crown Prosecutors, available at: [www.cps.gov.uk/publication/code-crown-prosecutors](http://www.cps.gov.uk/publication/code-crown-prosecutors)

## **What happens if there isn't enough evidence to charge a suspect?**

If there isn't enough evidence to bring a charge in the case, we will let the police know what further evidence they could gather to make the case stronger with a view to bringing a prosecution. If, after that, there is still not enough evidence to meet our legal test, we will write to you to explain our decision – or we can speak with you if you prefer.

You have the right to ask us to look at our decision again. We have a Victims' Right to Review scheme, available at: [www.cps.gov.uk/legal-guidance/victims-right-review-scheme](http://www.cps.gov.uk/legal-guidance/victims-right-review-scheme)

## **What happens after the suspect is charged?**

If the case is prosecuted, it will be referred to the Crown Court (unless, for example, the defendant is under 18). It can take a long time between a case being charged and for it to go to trial. During this time, we will be getting it ready to be presented to the court. We don't decide when cases are heard – this is a decision for the courts.

## **What happens when a defendant pleads guilty / guilty to some charges / not guilty?**

### **Pleading guilty**

If a defendant pleads guilty, the Judge will either sentence them straight away or adjourn the sentencing to another hearing. We will make sure you have a chance to provide a 'victim personal statement' to explain how the crime has impacted you. The Judge will consider the circumstances of the offence and guidelines to decide what sentence to give the defendant.



### **Pleading guilty to some charges**

If the defendant pleads guilty to some of the charges but not others, we will decide whether to continue with the remaining offences. Before making this decision, we will speak to you and take your views into account where possible. We will carefully consider our decision against the Full Code Test and other guidance (i.e. the Attorney General's guidance on the acceptance of pleas, available at: [www.gov.uk/guidance/the-acceptance-of-pleas-and-the-prosecutors-role-in-the-sentencing-exercise](http://www.gov.uk/guidance/the-acceptance-of-pleas-and-the-prosecutors-role-in-the-sentencing-exercise))

### **Pleading not guilty**

If the defendant pleads 'not guilty' to all the charges, the case will go to trial. The Judge will set a trial date, and you and other witnesses may be asked to attend court to give evidence.

## **Building the prosecution case**

### **Digital evidence**

Most adults in England and Wales own digital devices such as smartphones, laptops or tablets. These devices can hold vast amounts of data including personal and sensitive information. As part of the investigation or our advice, the police may make a request to look at your digital devices. This might make you anxious but it is not a decision that it is taken lightly – it will be requested only if it is a reasonable line of enquiry.

The police will usually ask for your agreement (consent) before taking a device from you. There are rare occasions when the police can take a device without agreement. There are potential consequences if devices are not provided, which include:

- It may not be possible to pursue the investigation or proceed with a prosecution
- A witness summons may be issued – this is a document issued by the court that will require someone to give evidence at court or provide their device to the court

### **Disclosure**

The police will prepare a full list of all materials we have in the case that we don't intend to use, and we share that list with the defence. This process is called 'disclosure' and is a very important part of pre-trial preparation.

Disclosure helps make sure there is a fair trial. It can help the defence to understand the case against the suspect. In some cases, disclosure may persuade the defendant to change their plea to guilty once they've seen how strong the case is against them.

The police will have gathered evidence when investigating the case. This may include information from your mobile phone and computer. You might be concerned that those devices contain personal messages, information or images that you don't want others to



see. We will share materials with the defence only if strict legal requirements are met. The defence can apply to see this material– but if we don't consider it should be shared, the Judge will decide what happens.

If any new evidence emerges that means the case can no longer go ahead or the charges need to change, we will let you know about this decision and the reasons why.

### **Therapy or counselling before trial**

You may be having or thinking about having therapy or counselling to help you recover from your experiences. We are clear that you should receive, as soon as possible, effective treatment and therapeutic support to assist your recovery. Therapy should not be delayed for any reason connected with a criminal investigation or prosecution. If you receive therapy before a trial the police must only collect notes from your therapist or therapy provider in pursuit of a reasonable line of enquiry. It will only be a reasonable line of enquiry if there is some reason to believe that the notes will contain material relevant to the case. This is important in making sure there is a fair trial process. The information may also help us to build the case or be in a better position to respond to issues raised by the defence.

### **Helping you prepare for court**

We will help address any specific needs you might have, and answer any questions you have on court procedure and processes. You will also be kept up to date by the police Witness Care Unit or an Independent Sexual Violence Adviser (ISVA), if you have one. They will tell you how the case is progressing, when the trial is scheduled to start and end, and if and when you need to attend court to give evidence.

### **Special Measures**

Giving evidence in person in court can be a traumatic experience, particularly in rape cases. We will apply to the court for less traumatic ways for you to give evidence if suitable. These are known as 'special measures', and can include giving your evidence from behind a screen, via a video link or through an interpreter. To find out more about special measures you can read our Special Measures Legal Guidance, available at: [www.cps.gov.uk/legal-guidance/special-measures](http://www.cps.gov.uk/legal-guidance/special-measures)

### **What to expect on the day of the trial**

We will meet you before the trial starts at court. The CPS prosecutor, also called the prosecution advocate, will introduce themselves to you and answer any questions you might have about the process. We will tell you about the progress of the case and, where possible and relevant, explain any delay to you.



We will explain how you can pass information to the prosecutor during the case if you think it will help the court.

You and any other witnesses will wait in the Witness Service waiting room until called to give evidence. Citizens Advice volunteers will keep you updated with how the trial is progressing court. If you are worried about seeing the defendant, their friends or family, or any witnesses called to defend the case, let the Witness Care Unit know in advance of the day of the hearing so they can make arrangements to avoid this.

## The Crown Court process

**Our role is to present the case to the court.** The jury will consider our case, and the case presented by the defence. They will convict the defendant if they are sure that they are guilty.

You might be worried that your identity or personal information will be shared outside the court. As a victim of rape or serious sexual assault, no one should ever identify you outside of the case itself. That means you must not be named in any media reports, press notices or on social media throughout the trial or after it even if the defendant is found not guilty. If you discover that you have been named in a media report or on social media in relation to the case, you should report this to the police.

### The structure of the trial

The CPS prosecutor will open the case by setting out the charges against the defendant. They will then likely call you and other prosecution witnesses to give evidence. The defence lawyer will have an opportunity to ask you and other prosecution witnesses questions too – this is called cross-examination. In rape cases, the defendant cannot personally cross-examine (ask questions to) the victim.

The trial then swaps over to hearing from the defence. The defence lawyer may make an opening speech and call their witnesses.

As a victim of rape, the law is designed to stop the defence trying to discredit you by using sexual history evidence and places a limit on them to ask questions to you about this subject. We will protect you from attacks on your character during cross-examination. The defence is not allowed to ask you questions about any previous sexual experiences you've had with anyone, including the defendant, unless the Judge gives permission to do so in order to ensure that the defendant receives a fair trial. If permission is given, you will be told in advance and the defence will be able to ask you questions about specific examples of behaviour only; they cannot ask wide-ranging questions about your sex life. We will always challenge applications from the defence where it is appropriate under the law to do so. The final decision lies with the Judge, who can give permission only if strict legal conditions are met.



Once the defence have asked all their questions, the CPS prosecutor will have an opportunity to cross-examine defence witnesses.

Once all witnesses have been questioned, both lawyers will usually make closing speeches. The CPS prosecutor will sum up all the key points of their evidence, and then the defence lawyer will usually do the same thing. The Judge will sum up anything that the jury should keep in mind when considering the evidence, and the jury will then retire to reach a verdict.

### **The verdict – being found guilty**

The jury will be asked to reach a verdict on the charges brought against the defendant. If found 'guilty', the defendant is convicted and the Judge decides on a sentence by referring to Sentencing Guidelines and the law. They will decide how long the sentence should be, what requirements should be included and the amount of any fine. All of these decisions will depend on the facts and seriousness of the crime.

The Judge can sentence the defendant straight away or ask them to return at a later date. We are not responsible for sentencing but we will make sure the Judge has the information they need to make an appropriate decision. The Sentencing Council has provided more information about sentencing works which is available on their website, available at: [www.sentencingcouncil.org.uk/sentencing-and-the-council/](http://www.sentencingcouncil.org.uk/sentencing-and-the-council/)

### **Being found not guilty**

If the jury decides the defendant is not guilty, that does not mean you were not believed, that your trauma isn't true, you were lying or that we were wrong to bring the case. It means that the jury couldn't be sure that the defendant was guilty. If found 'not guilty', the defendant is free to leave the court.

### **What happens if the jury can't reach a verdict?**

In some cases, the jury may fail to reach a verdict. We will then decide whether a second trial would be in the public interest, and whether it would likely result in conviction. Any decision we make will be in line with the Full Code Test. More information about this test is contained in the Code for Crown Prosecutors, available at: [www.cps.gov.uk/publication/code-crown-prosecutors](http://www.cps.gov.uk/publication/code-crown-prosecutors)

### **After the trial / appeals**

If the defendant is found not guilty, neither we nor you can appeal the verdict.

If the defendant is found guilty, they are entitled to appeal if they have a legal reason to do so – this could be new evidence that has come to light or they believe the trial wasn't conducted fairly. Appeals can be made against the conviction and/or the severity of the sentence. If a Judge agrees to an appeal, the case will be sent to the Court of Appeal for a new trial. If there is an appeal, we will keep you updated on its progress and explain the court's judgment to you.



### **Appealing a sentence**

You have the right to ask for the defendant's sentence to be reviewed if you think it is too short (unduly lenient). We and members of the public can also appeal a sentence on this basis. The Attorney General's Office is responsible for reviewing the sentence if it is requested, more information on this available at: [www.gov.uk/ask-crown-court-sentence-review](http://www.gov.uk/ask-crown-court-sentence-review)

### **Your rights as a victim**

You have 12 rights under the Victims' Code, which we and other parts of the criminal justice system uphold. The Ministry of Justice has published A Code of Practice for Victims of Crime in England and Wales which provides more information, available at: [www.gov.uk/victims-code](http://www.gov.uk/victims-code)

The CPS also has made a Prosecutors' Pledge to victims, available at: [www.cps.gov.uk/prosecutors-pledge](http://www.cps.gov.uk/prosecutors-pledge)

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