



**CROWN PROSECUTION SERVICE**

# **CHILDREN'S CHARTER**

**Draft for public consultation**



# Draft for public consultation

## 4. CASES INVOLVING CHILDREN

### Identifying the involvement of children

- 4.1 Many of the cases we deal with involve children as victims or witnesses.
- 4.2 It is important that we find out as soon as possible whether a case that we are dealing with affects a child. We will work with the police to make sure that they collect the information at the earliest possible time. This will help us make decisions and give the full facts to the court. It will help us to give priority to your case if we can identify your involvement at an early stage.

### Delay

- 4.3 Delay is even more harmful to children than to adults. We will try to keep delays in cases involving you to a minimum.

### Therapy

- 4.4 We will never say that you cannot have therapy until the trial is over. However, there are some types of therapy that could have an effect on the evidence you will give. We may in some cases have to consider not going ahead if you have one of these therapies.
- 4.5 We can give advice about what types of therapy will be likely to harm the trial. In the end your need for therapy must come first and we will work with everyone concerned to ensure the best result for you.

### Children's best interests

- 4.6 Your needs are very important and we will always consider them, but they cannot be the only thing we consider. We will listen carefully to what you, your parents, carers and supporters say and we will take seriously any assessment we get about your needs. We also have to consider the needs of other victims or witnesses and the general public interest.

### Using children as witnesses

- 4.7 We will not call you as a witness unless it is absolutely necessary. There are no fixed rules about what age you should be before you can give evidence and we will look at each case individually. We have to be sure that you can understand any questions asked and can give understandable replies. The younger you are, the more carefully we have to consider this test.

### Offences by children

- 4.8 We have to treat children who are accused of crimes differently from adults, but we also have to find a balance between the needs of child defendants, the needs of the victim, and the public interest.
- 4.9 We are less likely to prosecute you than an adult who has done something similar. One of the important decisions about children who have committed criminal offences is whether you can be dealt with in ways that do not involve the criminal courts. Two important factors will be the seriousness of the offence and the likely punishment if the case went to court.

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- 4.10 Sexual behaviour between children who cannot legally consent is a difficult area. All sexual behaviour by children under 16 is illegal under the Sexual Offences Act 2003. This does not mean, however, that we will always prosecute children under 16 who engage in sexual activity, as this would often mean having to prosecute both of you for taking part in sexual behaviour.
- 4.11 We will consider each case by applying the Code for Crown Prosecutors and assessing whether a prosecution is in the public interest. We will not automatically prosecute you for taking part in sexual behaviour.
- 4.12 We will look to see whether the activity can be said to be “abusive”. We will look, among other things, at:
- your age and the age of the other person(s) involved;
  - whether anyone used force or made threats;
  - whether one of you has limited abilities;
  - whether one of you had significant influence or power over the other;
  - whether, in other words, the consent was genuine.
- 4.13 Some children are pushed into prostitution. We will treat them as abused children who need help and advice and we will prosecute instead the people who benefit from prostitution.

## Information held by other people

- 4.14 Sometimes people such as doctors, social workers or teachers may have to give us personal information about you. This sometimes has to be passed on to the defence team. There are rules that control how this is done and what information can be given. We will apply these rules strictly to make sure that information is only handed over when absolutely necessary, or when the court orders us to do so.
- 4.15 We will try to collect the kind of information that may have to be given to the defence at an early stage in the case. This will help to reduce delays if it does have to be handed over.

## Preparation for court

- 4.16 Giving evidence is never easy but we take extra care to make sure that it is as comfortable as possible for you. There are leaflets and videos to explain what happens at court. There are details at the end of this booklet.
- 4.17 We can help you feel more comfortable when you have to give your evidence by arranging for you to visit the court in advance. You may be able to:
- see where the defendant will sit;
  - see where you will wait and give your evidence;
  - see how the video link equipment works;
  - meet the judge;
  - meet the lawyer who will deal with your case in court;
  - meet the person who will support you on the day of the trial;
  - discuss any fears or concerns you have.

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## Help for children at court

- 4.18 Someone who knows the building and the procedures and is trained to give children support will be available to help on the day of the trial. We will try to make sure that this is someone you have already met. That person can be there when you give evidence but cannot discuss the evidence itself or advise on what to say.
- 4.19 There are “Special Measures” that are available to help some witnesses (especially children under 17) give evidence in the best way and with as little stress as possible. These include:
- using a video recording to give your evidence;
  - answering questions using the video link from another room;
  - giving your evidence in private (“clearing the court”);
  - barristers and judges in the Crown Court removing their wigs and gowns;
  - aids, such as sign and symbol boards, for children with communication needs;
  - screens to prevent a witness who is in court from seeing the defendant.
  - tests are being done in some courts using someone to help explain the questions or answers if necessary (An “intermediary”). These are not yet fully available in all courts.
- 4.20 We will try to make sure that the court makes arrangements, such as regular breaks, that will help you, and that it takes into account the your needs if you have physical or learning disabilities.

## Giving evidence

- 4.21 The evidence of children under 17 will often be recorded on video at the start of the investigation. If a video was made you will usually give your evidence to the court by the video being played. You will be able to see the video before the trial and before you have to answer questions about it. The defendant will be able to see the video before the case comes to court.
- 4.22 When you have to answer questions from the defence (“cross examination”) you will almost always use a video link from another room at the court. In some cases the video link could even be from somewhere away from the court building. You will not have to see the defendant, but in most cases the defendant and others in the court will be able to see you on the TV screen.
- 4.23 Although there are some occasions when you will give evidence from the courtroom itself, the usual way is using the video link.

## Tackling inappropriate questioning

- 4.24 Cross examination can never be a pleasant experience but we will challenge bullying behaviour and questions from the defence. We will ask judges and magistrates to make sure that you can easily understand the questions you are asked and that the words used match your age and abilities.

## Publicity

- 4.25 Newspapers, magazines, radio or television cannot report the name, address or school of a child or young person under the age of 18 in cases in the youth court.

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- 4.26 The Crown Court can make an order to stop publicity that would identify you as a victim or witness, and will usually do so. We will do everything we can to prevent reports in newspapers, television or radio that might identify you by asking that the Crown Court makes an order to prevent publicity.