

# Children and Young People

CPS policy on prosecuting criminal cases involving children  
and young people as victims and witnesses

CROWN PROSECUTION SERVICE



### **Who are we?**

The Crown Prosecution Service (CPS) is the principal public prosecuting authority for England and Wales and is headed by the Director of Public Prosecutions. The Attorney General is accountable to Parliament for the Crown Prosecution Service. The Crown Prosecution Service is a national organisation consisting of 42 Areas.<sup>1</sup> Each Area is headed by a Chief Crown Prosecutor and corresponds to a single police force area, with one for London. It was set up in 1986 to prosecute cases investigated by the police.

Although the Crown Prosecution Service works closely with the police, it is independent of them. The independence of Crown Prosecutors is of fundamental constitutional importance. Casework decisions taken with fairness, impartiality and integrity help deliver justice for victims, witnesses, defendants and the public. The Crown Prosecution Service co-operates with the investigating and prosecuting agencies of other countries.

### **What is this policy about?**

It is about children and young people who are victims of crime, or are witnesses in a criminal trial. Many of the cases we deal with involve children as victims or witnesses. Whenever they do, we apply this policy.

Children also go to court as defendants. We hope that those supporting them will apply the principles in this policy.

### **Who is it for?**

It is written for the parents and carers of child victims and witnesses, and for people whose job is to support children.

It means Crown Prosecutors will know the standards that the public can expect from them when dealing with child victims and witnesses.

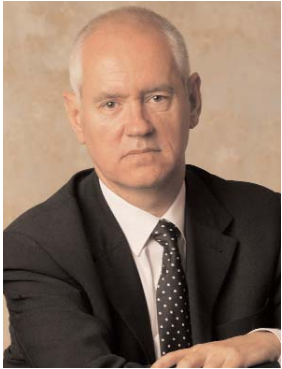
It also means that police officers, court staff and other professionals in the criminal justice system will know how the Crown Prosecution Service aims to support children who are victims or witnesses in criminal cases

In this document 'children' means everyone under the age of 18, and all references to children include young people.

<sup>1</sup> Under review at publication as a result of the government's review of police force areas in England and Wales.



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## FOREWORD

I am delighted to be able to present to you 'Children and Young People'.

Children and young people can be found everywhere in the criminal justice system. They appear not only as victims and defendants, but also in great numbers as witnesses to offences against others.

'Children and Young People' is a public statement of our commitment to work together with others to safeguard children in the spirit of the cross-government initiative 'Every Child Matters: Change for Children'. It brings together the principles of the Prosecutor's Pledge, the Code of Practice for Victims of Crime and the draft Witness Charter and applies them to children.

The creation of the policy has been a valuable exercise in working together with representatives of children's organisations on both the content of the document and its eventual delivery to children.

In particular I am grateful to the representatives of Barnardo's, NSPCC, Stop It Now! and Victim Support, who have worked closely with us and encouraged us throughout the process.

I should like to thank all those who have contributed their thoughts and effort to the development of this policy. I am confident that it will lead to better outcomes for children who are victims or witnesses.

A handwritten signature in black ink, appearing to read 'Ken Macdonald QC'.

**Ken Macdonald QC**

Director of Public Prosecutions

# EVERY CHILD MATTERS

## Working together

The Government is committed to ensuring that people work together to safeguard children. These ideas are set out under the banner of its programme 'Every Child Matters: Change for Children' and in the document 'Working Together'<sup>2</sup>.

The aim is for children to be happy, healthy, safe and successful. The work we do can affect only some of these things directly, but when we prosecute cases we will always think about those aims and the wider needs of children.

Teachers, social workers, doctors, counsellors, Victim Support workers and police officers are just some of the people we need to work with. We need to consult them at times to help us make the right decisions about child victims and witnesses. They can often tell us a lot about the needs and wishes of our child victims and witnesses.

## Children as victims

Children can be victims of abuse, cruelty or neglect and almost any other type of crime. These crimes can be committed by adults, other children, strangers or people they know.

Some children are forced into prostitution. We will treat them as abused children who need help. We aim to prosecute people who organise prostitution and who benefit financially from abusing children.

We realise there is a danger that children can become victims for a second time during criminal cases because of how they are treated. Prosecutors will work hard to prevent this happening.

## Children as witnesses

Children can also be witnesses to crimes, both against people they know or against strangers.

When children are witnesses we must make sure that they are well supported and able to give their evidence in court with as little stress and anxiety as possible.

Being a witness can be tough and challenging but it is an extremely important thing for anyone to do. We want children to be able to play their part in bringing offenders to justice without thinking that they are the ones on trial.

## Children affected by crime

Children can be affected by crime, even if they are not victims or witnesses. They may live in a house that has been burgled and feel afraid of it happening again. There may be domestic violence in the house where they live or visit. They may have been harmed by what has happened around them.

If the police tell us there are children involved it could affect our view of the seriousness of an offence. It is also information we can give to magistrates and judges so that they will know the impact that a crime has had on a child. That may be relevant when a defendant is sentenced.

## Children are individuals

Children have particular needs and wishes, not just because they are children, but because they are individuals. We will try hard to be sensitive to the fact that all children have needs and wishes, but that children are not all the same.

Children all have different experiences and come from different backgrounds and cultures. We will try hard to understand the different ways we may need to treat them to respect those differences.

<sup>2</sup> <http://everychildmatters.gov.uk>

We will try to speak and write to children in their first language using an interpreter if we need to.

Some children, or their parents, may have very strong views on whether people who speak to children are male or female or from a particular ethnic background. There may be customs or beliefs which may make it difficult to talk to children on certain days such as holy days. Whenever we can we will respect these views. We will be careful about how we ask children to talk about things that may be difficult or embarrassing.

We will be sensitive to the fact that children have different levels of ability whatever their age. We will try to find the best way to make sure that each child is treated in a way that respects his or her own needs.

We will not assume that all children can hear or see well or move about easily. We will make sure we find out about any extra help that children may need so they can give their best evidence.

### **Children's best interests**

We will always think about what is best for children in criminal cases. It will be high on our list of what is important but it cannot be the only thing we consider. We look at this later in more detail in the section on 'The Public Interest' on page 8.

### **Children – our standards**

The Prosecutor's Pledge<sup>3</sup> and the Victims' Code<sup>4</sup> set standards for how we will treat victims and witnesses in our work.

The 'United Nations Convention on the Rights of the Child'<sup>5</sup> says that adults must do what is best for children and think about how their decisions will affect them. Children have the right to fair treatment in a justice system that respects their rights.

This policy takes those standards and looks at how we apply them in cases where children are victims or witnesses.

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<sup>3</sup> A 10-point Pledge that describes the level of service victims can expect to receive from prosecutors. Published October 2005. <http://www.cps.gov.uk>

<sup>4</sup> The Code of Practice for Victims of Crime' came into force in April 2006. <http://www.cjsonline.gov.uk/victim/index.html>

<sup>5</sup> Adopted by the UK government in 1991. The text of the Convention and a child-friendly version can be found at <http://www.unicef.org/uk/tz/rights/convention.asp>

## TAKING CASES TO COURT

We can help to keep children safe by working with the police to take strong cases to court.

If defendants are found guilty, courts have the power not only to punish them, but also to make orders intended to control their behaviour in future.

### The Code for Crown Prosecutors<sup>6</sup>

We decide which cases to prosecute by applying two tests that are set out in the Code for Crown Prosecutors. Both tests must be passed before a case can be prosecuted.

Firstly there must be sufficient evidence to provide a realistic prospect of conviction before the case can go to court.

Before we decide to charge a suspect with an offence, there must be enough evidence so that magistrates or a jury will be more likely than not to convict the defendant of what he or she is accused of.

Secondly it must be in the public interest to prosecute. We have to balance the factors for and against prosecution carefully and fairly.

### Evidence

We will work with the police to build strong cases by collecting good evidence, but we will stop cases where the evidence is not strong enough for the court to find the defendant guilty. We cannot prosecute if there is not enough evidence that can be used in a trial.<sup>7</sup>

### Video statements

Police officers or social workers who have been trained to work with children can use a specially equipped room to record on video what children under the age of 17 tell them.

They usually do this in sexual cases or where there was violence or neglect or a child has been abducted. In other cases it depends on a number of factors, including how serious the offence was and how it has affected the child, as well as whether it is likely to improve the quality of the evidence the child can give.<sup>8</sup>

They will always try to talk to children in the language of their choice using an interpreter if necessary.

Parents or carers will not usually be in the room with their children, but they will be nearby, unless they themselves are suspects, in case the child becomes upset. The video will be played in court if there is a trial and everyone in court will be able to see it. The defendant will also see the video, or the statement, before the case comes to court, as well as on the day of the trial.

### Making a Victim Personal Statement

Victims can make an additional statement called a Victim Personal Statement at any stage of the case, but they do not have to make one if they do not want to. It is in addition to the video or statement about the offence itself.

In many cases the police officers will take this statement from a child at the start of the case, using the video room, rather than writing it down. Parents or carers can make one on behalf of a child victim.

If a child or parent or carer has not made a Victim Personal Statement and wants to, or wants to add anything to one they have already made, they should contact the police officer.

<sup>6</sup>The Code for Crown Prosecutors is issued by the Director of Public Prosecutions. It sets out the principles to be applied when deciding whether or not an individual should be prosecuted. Available from any CPS office and the CPS website <http://www.cps.gov.uk>

<sup>7</sup>There are technical legal rules about whether courts will allow evidence to be used. For example, evidence that has been obtained unlawfully may be ruled 'inadmissible' by the court and so cannot be heard.

<sup>8</sup>Achieving Best Evidence Vol. 1 paragraphs 2.26 - 2.28. <http://www.cps.gov.uk>

### **Using a Victim Personal Statement**

In the statement victims can describe how they have been affected by the crime. They can talk about their wishes or needs during the case and any concerns they may have as a result of the offence. The defendant will be able to see the video or the statement with all the other evidence.

Prosecutors can use Victim Personal Statements to help them make decisions about cases, for example when deciding whether they should ask the court to impose conditions when a defendant is on bail.

Courts can use them to help decide what sentence defendants should receive when they have been convicted.

### **Considering the evidence**

A Crown Prosecutor will look at the evidence, including children's videos or statements, to decide whether the suspect should be charged or whether further evidence is needed.

We can ask the police to do further investigations if there is not enough evidence. If the evidence is still not strong enough or cannot be used in a trial we will stop the case.

After a suspect has been charged with an offence, we keep the decision under review, especially if more evidence or other information comes to light.

### **The Public Interest**

If the evidence is strong enough, we go on to decide if it is in the public interest to prosecute.

### **Examples**

These are examples from the Code for Crown Prosecutors of what we will consider:

- how serious the crime is;
- if the victim was a child;
- if an offence was committed in the presence of a child;
- how serious the punishment could be;

- the ages of the people involved;
- if it was planned;
- if it is likely to happen again;
- how a court case could affect the victim.

This list does not cover everything. Each case is different and has to be decided on its own merits. The more serious the offence the more likely it is that a prosecution will be needed in the public interest.

### **How we decide**

We think carefully about the effect on children and their families when we make these decisions. The younger a child is the more careful we will be.<sup>9</sup>

There may be several children involved. What is best for one of them may not be best for all of them.

There will often be adults involved as well and we have to think how our decisions will affect them.

If a crime against a child is serious, and the evidence is strong enough, we will nearly always prosecute. We will always think about the effect on that child of going to court, and make sure there is good support before, during and after the trial.

### **Listening to children**

We will always listen carefully to what children have to say about their case and about going to court.

Children can give us their views by telling the police officer, witness supporter or Witness Care Officer, who will pass them on to us.

<sup>9</sup> Prosecutor's Pledge: 'Take into account the impact on the victim or their family when making a charging decision.'

In a small number of cases we may have a meeting with a child and his or her parents or carers to discuss their views or explain why we have made certain decisions.

Children's views are important, but in the end we have to make the final decision in cases. We will listen carefully, but we cannot promise to do what children want all the time.

## Some common concerns

### Very young children

The younger children are, the more careful we have to be about deciding whether it is right to ask them to become involved in a criminal trial.

There are no fixed rules about how old children must be before they can give evidence or before we will prosecute a case, but there are practical as well as welfare concerns.

All witnesses have to be able to understand questions and be able to give replies that can be understood.<sup>10</sup> In some areas of the country an 'intermediary', who is specially trained to help children communicate, can help them to understand and answer questions, if they would find this difficult without help.<sup>11</sup>

We will always look at the help we can give children when we decide whether we can prosecute cases.

### Parents' concerns

Parents or carers may be concerned about how their children will cope at court. We can help by giving them information about the help available for children. There is more detail in the section on SUPPORTING CHILD WITNESSES on page 13.

## Parents' consent

Some parents or carers may not want their children to give evidence.

We do not want children to go to court unless it is necessary, but we have to look carefully at why parents or carers do not want children to be witnesses.

A parent or carer who is accused of a crime, or is influenced by a relationship with a defendant, for example, must not be able to prevent a child giving evidence. We also need to make sure that parents or carers are fully aware of all the circumstances.

We have to think about the interests of others, as well as the child, and carefully balance them all when making these decisions.

We will always try to get agreement by explaining and persuading, but there may be some very serious cases when we have to ask a child to give evidence even if a parent or carer does not agree.

## Charging the suspect

If there is enough evidence and it is in the public interest for a case to go to court, we will decide what charges the suspect will face. There may be more than one charge.

We will make sure that the charges reflect the seriousness and extent of the offending, give the court sufficient power to sentence a defendant who is found guilty, and enable the case to be presented in a clear and simple way.

<sup>10</sup> Section 53 Youth Justice and Criminal Evidence Act 1999 sets the test for whether a witness is competent to give evidence.

<sup>11</sup> Merseyside, Thames Valley, West Midlands, South Wales, Norfolk, Devon and Cornwall from July 2005. After evaluation it is hoped that they will become available throughout the country during 2006.

## Changes

### Changing or dropping charges

We have to make decisions all the way through cases. If we make significant changes or drop a charge we will tell child victims what we have done and why.<sup>12</sup>

### Who do we tell about changes?

We will usually write to a child's parents or carers, but this cannot be a fixed rule.

There may be reasons why the parents or carers should not know. One or both of them could be a defendant, for example.

If victims are 12 or over, we may write to both them and their parents or carers. We do not think it is normally appropriate to write to children under 12.

We may write to older children and suggest that they show it to their parents or carers.

### Explaining our decisions in a meeting

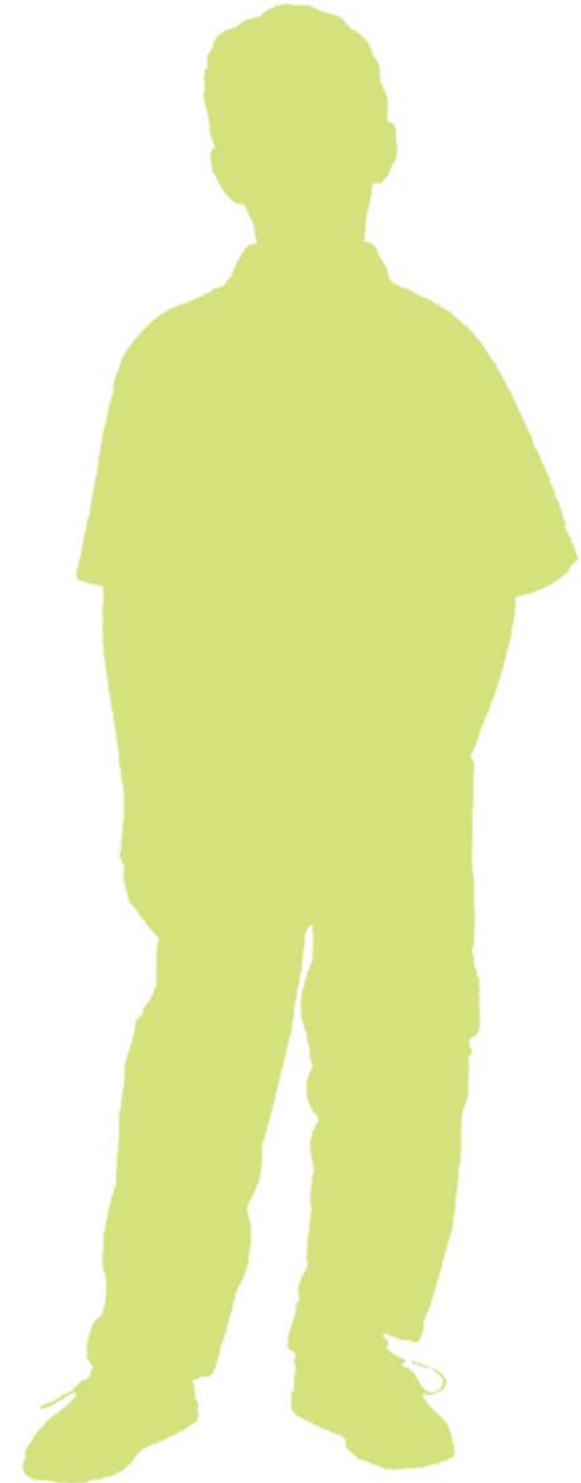
In some of the more serious cases we will offer to meet child victims to explain our decisions to change or drop charges.

This does not mean that we will change the decision, but we will explain the reasons why we made it.

Children can bring a parent, carer or witness supporter to one of these meetings.

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<sup>12</sup> Prosecutor's Pledge: 'Inform the victim where the charge is withdrawn, discontinued or substantially altered.'  
Since 2001 the CPS has followed a policy of informing identified victims about significant changes in a case: The initiative is called 'Direct Communication with Victims'. See <http://www.cps.gov.uk> for more information.



## GOING TO COURT

### Avoiding delay

Long delays waiting for trials can be very bad for children:

- they have longer to feel anxious and nervous about the trial;
- after a long delay, it is more difficult to remember clearly what happened;
- it takes longer to put the past behind them.

We will try to get the earliest possible date for the trial and have the date fixed in advance.

### If the defendant pleads 'guilty'

#### Consulting children

Sometimes defendants offer to plead guilty to just some of the charges, or on their own version of events.

Whenever possible, we will consult child victims and their parents or carers for their views.<sup>13</sup> We will also consider the impact on children of giving evidence at a trial.

The basis of a guilty plea must not be agreed on a misleading or untrue set of facts and must take proper account of the victim's interests.

The final decision rests with the Crown Prosecutor.<sup>14</sup> We will only accept the defendant's plea if we think the court is able to pass a sentence that matches the seriousness of the offending, particularly where there are aggravating features. We never accept a plea just because it is convenient.

<sup>13</sup> Prosecutor's Pledge: 'Where practical, seek a victim's view or that of the family when considering the acceptability of a plea.' See also: Attorney General's Guidelines on acceptance of pleas. <http://www.attorneygeneral.gov.uk>

<sup>14</sup> The Code for Crown Prosecutors paragraphs 10.1–10.5

### If the defendant pleads 'not guilty'

If a defendant does not admit any or all of the charges, the witnesses will have to give evidence later at a trial.

We describe how we help witnesses prepare for trials in the section on SUPPORTING CHILD WITNESSES on page 13.

### Keeping in touch

Whether the defendant pleads guilty or not guilty, there may be several hearings before the trial or the sentencing hearing. We will keep child victims and witnesses informed about the progress of the case and make sure they know which hearings they need to attend.

#### Witness Care Units

Witness Care Units, run jointly by CPS and the police, manage the care of victims and witnesses from the time a defendant is charged right to the final hearing.

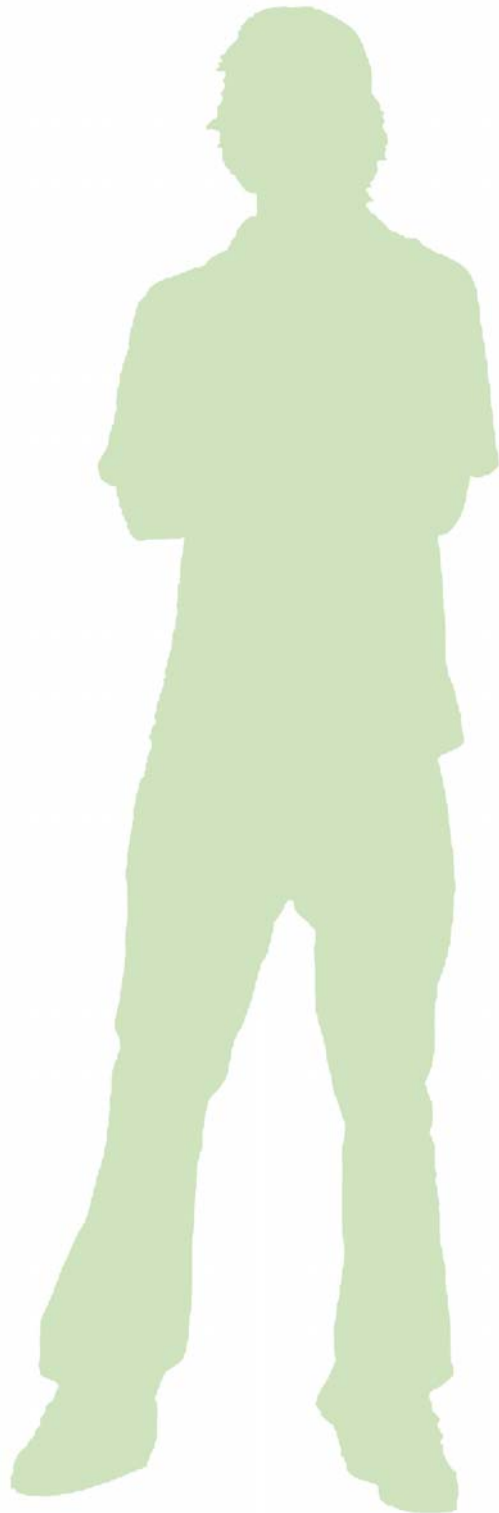
They can help with things like:

- travel expenses;
- child-care when carers have to leave children at home;
- interpreters;
- arranging support for children at court.

#### Witness Care Officers

Each child victim or prosecution witness will have his or her own Witness Care Officer, who will:

- explain the reasons for any delays;
- organise help and support;
- explain what happened at court hearings;
- give the dates of future hearings;
- say when and where the child next needs to attend court;
- explain the result of a trial;
- explain the sentence a guilty defendant was given;
- offer support after the case;



- say 'thank you' at the end of the case.

In all cases where defendants plead not guilty, the Witness Care Officer will do a full 'needs assessment', to find out if the child victims or witnesses need any particular help or have any worries. The Witness Care Officer will use this information to decide how we can best support children during the case to give their best evidence.

Witness Care Officers cannot help children who are defence witnesses, but the defence team can get help through Victim Support and the Witness Service at court.

## SUPPORTING CHILD WITNESSES

The police tell us if there are children involved in a case, and if they have any particular needs. Knowing this at the start of a case helps us to make sure children have the full support they need, such as those outlined in 'Special Measures' on page 15.

### Sharing information

There are times when we need to consult other people who work with children about the child victims and witnesses in our cases. There may be help and support that they can give during cases and afterwards, that we cannot. We may decide that we cannot prosecute a case but we may still think that a child needs help or protection that someone else can give.

There are times when we need other people, such as social workers, teachers or health workers to consult us. They may have concerns or information about a child victim or witness.

Information from them could help us make better decisions in cases involving children.

### Personal information

There may be personal information about a victim or witness that is not used as evidence in the case. It may be relevant background, and could assist us (or the defence team) in making decisions or preparing for a trial.

There are rules that control when information like this is given to the defence team.<sup>15</sup> We will apply these rules strictly to make sure that such information is only handed over when absolutely necessary, or when the court orders us to do so.<sup>16</sup>

### Therapy and counselling

#### Putting children first

There are times when children need help to get over what has happened if they have been victims or witnesses.

We will never say that a child cannot have therapy or counselling until the trial is over. A child's need for therapy or counselling comes first. We have a separate booklet that deals with therapy for children.<sup>17</sup>

#### Giving advice

We need to know if a child has had, or needs to have, therapy before the trial. We have to consider the possible impact on the trial. We also have to tell the defence team that a witness has had therapy or counselling if it is relevant to the case.

There are concerns that some therapies may contaminate the evidence a child will give and undermine a prosecution.<sup>18</sup> We can give advice about what types of therapy or counselling will be likely to harm the trial.

We may, in some cases, have to decide not to go ahead with a case if one of these therapies is used, but a child's need for therapy or counselling must come first.

#### Making the decision

People with the right skills, such as social workers, doctors and therapists are the ones to say what the child needs, after talking to the child and his or her parents or carers.

We do not make decisions about whether a child needs therapy or counselling, but we will work with everyone concerned to make sure the child receives the support that matches his or her particular needs.

<sup>15</sup> 'Disclosure: A protocol for control and management of unused material in the Crown Court'. [http://www.hmcourts-service.gov.uk/cms/files/disclosure\\_protocol.pdf](http://www.hmcourts-service.gov.uk/cms/files/disclosure_protocol.pdf)

<sup>16</sup> Attorney General's Guidelines on disclosure: <http://attorneygeneral.gov.uk>

<sup>17</sup> 'Provision of therapy for child witnesses prior to a criminal trial'. See LIST OF PUBLICATIONS AND MATERIALS on page 23.

<sup>18</sup> Hypnotherapy, psychodrama, regression techniques and unstructured groups.

## Support schemes

There are schemes for child witnesses in some parts of the country to help children get ready for the trial and to support them to feel as relaxed as possible when giving evidence.

Witness supporters can help children by:

- explaining what will happen at the trial;
- helping them be confident enough to say if they don't understand the question or need help.

They cannot discuss the details of the case or do anything which helps children practise the evidence they will give to the court.

The Witness Care Officer will know if there is a scheme in the area, or may be able to arrange similar help if there isn't a local scheme.

## Visits to court

Children can visit the court before the trial. This helps them feel more relaxed when they have to give evidence, as they will already know:

- what the court looks like;
- where the defendant will sit;
- where they will wait;
- where they will give their evidence.

They can also:

- meet the witness supporter who will be with them at the trial ;
- discuss any fears or concerns they have, with the witness supporter or the staff of the court.

## Reminding children of their evidence

It is often many months from the start of the case to the trial. Children may be afraid of forgetting what they told the police by the time they come to give evidence at the trial.

Child witnesses are allowed to watch their video or read their statement to remind them of what they said at the start of the case.<sup>19</sup> Watching the video also helps children to get used to seeing themselves on the TV screen.

We recommend that children should see the video before the day of the trial, not on the day itself. The visit to the court is a good time to do it.

The Witness Care Officer will make the arrangements with the police and the witness supporter.

## Dealing with changes to the video or statement

Sometimes the video or the statement has to be edited, if the magistrates or the judge decide that parts of them cannot be used in the trial. We will let children know if this has happened.

We will arrange for children to see the edited video or statement so that they know what has been removed and won't be taken by surprise at the trial.

## Support at court

### The witness supporter

A trained child witness supporter, who knows the building and court procedures, will be there to help on the day of the trial.

The supporter can be there when the child gives evidence but cannot discuss the evidence or tell children what to say.

We will try to make sure that the supporter is someone the child has already met and trusts, but the magistrates or the judge make the final decision about who it is.

We will make sure it is someone approved to work with children.

<sup>19</sup> Achieving Best Evidence Vol 2 paragraphs 4.33 – 4.38 <http://www.cps.gov.uk>  
Prosecutor's Pledge: 'Assist victims at court to refresh their memory from their written or video statement...'

## Special Measures

There are Special Measures to help children under the age of 17 give evidence in the best way to increase its quality and with as little stress as possible.

They include:

- using a video of their evidence to give their account of what happened;
- answering questions from the defence using the live link from another room;
- in sexual cases, giving evidence in private<sup>20</sup> by clearing the court of people who do not need to be there;<sup>21</sup>
- advocates and judges in the Crown Court removing their wigs and gowns;
- aids, such as sign and symbol boards, for children who have difficulty speaking;
- screens to prevent a witness who is in court from having to see the defendant;
- an intermediary to help explain the questions or answers if necessary.<sup>22</sup>

## How do children get Special Measures?

We make an application to the court as early in the case as we can, based on the information we receive from the police. The magistrates or the judge decide what Special Measures children can use. We will let children know as soon as possible.

In a few cases children will meet the Crown Prosecutor and the police officer to talk about the Special Measures that can be used to help them give evidence. In these meetings the Crown Prosecutor is not allowed to discuss the evidence but will answer questions about and explain the court process.

The meeting can help us decide what sort of Special Measures may help the child.

Sometimes we may need to explain why we think some Special Measures are, or are not, needed.

<sup>20</sup> This can also be done in cases where there has been or may be intimidation of a witness by someone other than the defendant.

<sup>21</sup> This does not include the defendant.

<sup>22</sup> See 'Very young children' on page 9 and footnote 9 on page 8.

## Publicity

Courts can order newspapers, TV and radio not to identify children. This includes their names and addresses, the schools they attend, or any details that could identify any children or young people involved in the case.

Courts can also order newspapers and TV not to show pictures of child victims and witnesses.

In most sexual cases, courts can make an order saying that the name of the victim must never be made public.

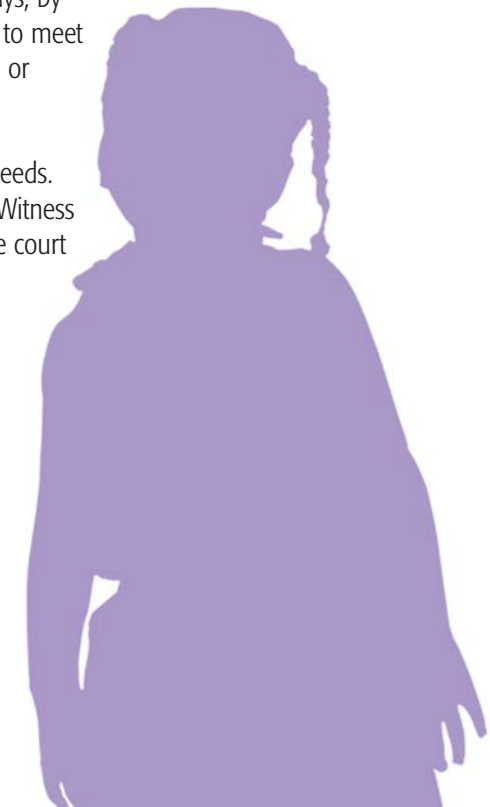
We will always try to protect children from publicity by asking that the court makes the appropriate orders whenever it has the power to do so.<sup>23</sup>

## Other help for children

We will ask the court to help children in more general ways, by having regular breaks, for example. Courts will always try to meet the needs of deaf or blind children or those with physical or learning disabilities.

It is important that we know about children's individual needs. Children or their supporters should tell the police or the Witness Care Officer about any particular needs so we can ask the court to make the necessary arrangements.

<sup>23</sup> Prosecutor's Pledge: 'Address the specific needs of a victim and, where justified, seek to protect their identity by making an appropriate application to the court'.



## THE TRIAL

We understand that child witnesses are likely to be nervous about going to court. It will probably be the first time they have ever done anything like this before.

There will be a witness supporter to meet child victims and witnesses at court and to show them where to wait and answer their questions.

### Meeting the advocate

A representative of the Crown Prosecution Service will be at court to make sure that child witnesses speak to the prosecution advocate before the trial.<sup>24</sup>

The advocate will be able to answer questions about what will happen during the trial, but must not discuss the evidence.

### Meeting the magistrates or the judge

We will try to arrange for children to meet the magistrates or the judge, on the day of the trial.<sup>25</sup>

### Giving evidence

If there is a video of a child's evidence, the court will usually watch it. If there is no video, child witnesses will tell the court what happened, in their own words, by answering questions from the prosecution advocate.

### Using the 'live link'

Children under the age of 17 in cases involving sex, violence, neglect or abduction must give evidence using the 'live link' to the courtroom. They can also use the live link in other cases if the court agrees. This means that they sit in a separate

room from the courtroom when they give their evidence and when the defence advocate asks them questions.

They will not be able to see the defendant, but the defendant and the judge and the advocates and the public in court will be able to see them.

Children can see this room on their visit to the court so they will know how the equipment works when they come to the trial.

If children give their evidence by live link from another building, we will make sure that they speak to the prosecution advocate on the link before the trial starts.

### Giving evidence in the courtroom

In some of the less serious cases a child may have to give evidence in the courtroom because the magistrates or judge may not agree to a child using the live link.

Similarly, if there is a good reason why child witnesses do not want to use the live link, we can ask the magistrates or judge to allow them to give their evidence in the courtroom.

We think it is best, however, for children to use the live link so they do not have to be in the courtroom at all. If they do give evidence in the courtroom we can ask for a screen around the child so they will not have to see the defendant.

### Cross-examination

The child will usually be in the 'live link' room, unless the court has decided they should give evidence from the courtroom.

### How questions should be asked

Advocates should:

- use words that match the age and the abilities of child witnesses;
- allow children time to answer questions.

<sup>24</sup> Prosecutor's Pledge: 'Promote and encourage two-way communications between victim and prosecutor at court.'

<sup>25</sup> Achieving Best Evidence, Vol. 2, paragraph 4.52 sets out appropriate safeguards.  
<http://www.cps.gov.uk>

Advocates have to challenge the evidence given by witnesses but they should not use:

- over-harsh cross-examination with any child witness;
- words and phrases that children cannot easily understand.

If a prosecution advocate thinks a defence advocate is being too aggressive, or not giving a child time to answer, they will ask the magistrates or judge to intervene.<sup>26</sup>

Prosecution advocates will ask magistrates and judges to make sure that children can easily understand the questions they are asked.

### **Further Information**

There are many leaflets and videos made for children to explain what happens at court. There are details at the end of this booklet in the LIST OF PUBLICATIONS AND MATERIALS on page 23.



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<sup>26</sup> Prosecutor's Pledge: 'Protect victims from unwarranted or irrelevant attacks on their character and may seek the court's intervention where cross-examination is considered to be inappropriate or oppressive.'

## AFTER THE TRIAL

Sometimes it can take several days to make decisions in complex cases. The Witness Care Officer will tell victims and witnesses what the result was if they were not at court to hear it themselves.

### If the defendant is not guilty

Magistrates or juries must be sure of the defendant's guilt if they are to convict. If they are not sure then they must find the defendant not guilty.<sup>27</sup> If the magistrates or jury decide the defendant is not guilty, this does not always mean they did not believe the witnesses. Juries do not have to give reasons for their decisions, so it is not possible to know how they reached their decision.

The advocate or the CPS representative will talk to the victim after the trial about what the verdict. Children in particular may need reassurance that it is not their fault.

### If the defendant is guilty

Sometimes there will be a delay before the court decides what sentence the defendant will get. The court may wish to have reports about the defendant.

The Witness Care Officer will tell child victims, usually through their parents or carers, when the sentencing hearing will be.

Children under the age of 14 are not allowed into court without the permission of the magistrates or the judge. Parents or carers can attend court on their behalf to hear what sentence the defendant receives. If they do not go, the Witness Care Officer will let them or their carers know what the sentence was and explain what it means.

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<sup>27</sup>This is sometimes described as 'a reasonable doubt'.

### Sentencing the defendant

When the court sentences the defendant, the prosecution advocate can tell the court about the effect that the crime has had on the child, using the Victim Personal Statement.<sup>28</sup>

The prosecution advocate, where it is appropriate, will ask the court for compensation, or orders that will protect a child in future.<sup>29</sup>

The prosecution advocate will challenge defence mitigation which unfairly attacks a victim's character.<sup>30</sup>

The court can consider the effect of the crime on the victim when deciding on the sentence. It is for the magistrates or judge alone to decide what the sentence should be.

### If there has to be a second trial

Sometimes there has to be a second trial and the witnesses have to give evidence again. If that does happen the advocate at the first trial will explain why. The Witness Care Officer will keep in touch and let the victim and witnesses know when the new trial will be and what will happen next.

### Appeals

#### Appeals against conviction

Sometimes the defendant may appeal against being found guilty by asking a more senior court to hear the case again.

In cases held in the magistrates' or youth court, there will be a second trial at the Crown Court.<sup>31</sup>

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<sup>28</sup> See 'Making a Victim Personal Statement' on page 7.

<sup>29</sup> Prosecutor's Pledge: 'On conviction apply for appropriate order for compensation, restitution or future protection of the victim'.

<sup>30</sup> Prosecutor's Pledge: 'On conviction, robustly challenge defence mitigation which is derogatory to a victim's character'.

<sup>31</sup> See the section on THE TRIAL on page 16.

In Crown Court cases, the Court of Appeal will decide if the decision was right. It is very rare for children to have to give evidence again in these cases.

### **Appeals against sentence**

Sometimes the defendant may appeal against the sentence.

In cases held in the magistrates' or youth court, a Crown Court judge and two magistrates will decide if the sentence was correct.

In cases held in the Crown Court, judges in the Court of Appeal will make the decision.

It is very unlikely that children will ever have to give evidence in appeals against sentence.

### **Appeals by the prosecution**

There is no general right for the prosecution to appeal when a defendant has been found not guilty.

In a very limited number of cases it may be possible for the prosecution to appeal against a decision by magistrates or a judge that brings a case to an end.<sup>32</sup> This can only be done where the magistrates or judge have made a mistake about the law.

Sometimes we may ask the Attorney General to challenge a sentence, if it falls outside the range that could reasonably be considered appropriate, after taking into account all the relevant factors. This is only available for a limited range of offences and within a strict time limit of 28 days after the defendant was sentenced.

If we decide not to submit the case for the Attorney General to consider, we will notify child victims without delay. They or their parents or carers may themselves wish to draw the sentence to the attention of the Attorney General.

### **Letting children know**

The Witness Care Officer will let child victims know, usually through their parents or carers, when the court will deal with the appeal.<sup>33</sup> Parents or carers can attend court on behalf of child victims to hear the result.<sup>34</sup>

If they do not attend the Witness Care Officer will tell children what happened, as soon as they can, and will explain what it means.

### **Thanking victims and witnesses**

Whatever the result of the trial is, we will always be grateful that witnesses, especially child witnesses, have come to court and given evidence. We will always find time to thank them.

We cannot promise that being involved in a criminal trial will be easy, but we want children to feel that they have been able to play their part, and that what we have done has allowed their voices to be heard.

<sup>32</sup>One procedure is called Judicial Review. The law, practice and procedure are contained in ss.111 – 114 Magistrates' Courts Act 1980, Rules 76 – 81 Magistrates' Courts Rules 1981, ss.28 – 31 Supreme Court Act 1981, Rule 26 Crown Court Rules 1982 and Civil Procedure Rule 54. There are provisions in s.58 Criminal Justice Act 2003 that deal with decisions by judges in the Crown Court.

<sup>33</sup> Prosecutor's Pledge: 'Keep victims informed of the progress of any appeal, and explain the effect of the judgement.'

<sup>34</sup> Children under 14 are not usually allowed into court.

## PART 3

# EXPLANATION OF TERMS USED

### A

#### **Advocate**

A lawyer who presents cases in court.

#### **Appeal**

A request for a higher or more senior court to change a decision made by a lower court.

### B

#### **Barrister**

A type of lawyer who gives advice and presents cases in court.

### C

#### **Case**

An investigation and any legal work that follows a complaint about a criminal offence.

#### **Charge**

When a suspect is formally accused of committing a crime.

#### **Code for Crown Prosecutors**

The Code for Crown Prosecutors is a document that sets out how we make decisions about cases. It is widely available to the public from any of our offices and on the internet at <http://www.cps.gov.uk>

#### **Compensation**

Money paid to a victim by a defendant to make up for loss, hardship, inconvenience or injury.

#### **Conviction**

A decision by magistrates or a jury that the defendant is guilty.

#### **Counselling**

Giving help and advice on personal, social or psychological problems.

#### **Court room**

The room where court cases are heard.

#### **Cross-examination**

Challenging the evidence given by a witness in court.

### **Crown Court**

A court where criminal cases are dealt with by a judge and a jury of 12 members of the public. The Crown Court also deals with appeals for cases dealt with by the magistrates' and youth courts.

### D

#### **Defence**

The reason the defendant says he or she is not guilty of the charge.

#### **Defence team**

The defendant's lawyers.

#### **Defendant**

A person charged with a criminal offence.

#### **Defence witness**

A person who gives evidence at court to support the defence case.

#### **District judge**

A lawyer sitting as a judge.

### E

#### **Evidence**

The information given to the court to help make the decision whether a defendant is guilty.

#### **Examination in chief**

The part of the trial when children tell the court what happened. In many cases involving child prosecution witnesses this is done using a video made at the start of the case by the police.

### G

#### **Guilty**

A defendant is guilty of a crime when he or she admits it or when the magistrates or jury decide they have done it, after hearing evidence at a trial.

### I

#### **Intermediary**

An intermediary is a person specially trained to help children understand and answer questions.

**J****Judge**

The person in charge of what happens in a court case. The judge makes decisions and decides the sentence when a defendant is guilty.

**Jury**

Twelve members of the public who listen to the evidence and decide whether the defendant is guilty in Crown Court cases.

**L****Lawyer**

The general term for solicitors and barristers.

**Live link**

A closed circuit television or video link that enables witnesses to give evidence from somewhere away from the court room, but still allows them to be seen and heard and to see and hear what happens in court.

**M****Magistrate**

An unpaid person who acts as a judge in magistrates' court and youth court cases.

**Magistrates' court**

A court where criminal cases are dealt with by magistrates or district judges. They deal with less serious cases and send the more serious cases to the Crown Court.

**N****Not guilty**

A defendant pleads not guilty if he or she denies the charge. A defendant is found not guilty if the magistrates or judge decides the prosecution has not proved the case.

**O****Offender**

Someone who has been found guilty of a crime.

**P****Plea**

When a defendant says he or she is guilty or not guilty.

**Prosecution**

This means the process that follows when a prosecutor decides a case should go to court.

**Prosecution witness**

A witness who is asked to give evidence to support the prosecution case.

**Prosecutor**

The person who presents the case against one or more defendants.

**Public interest**

See the section on 'The Code for Crown Prosecutors' on page 7 and 'The Public Interest' on page 8.

**S****Sentence**

Punishment given when a defendant is found guilty of a crime.

**Solicitor**

A type of lawyer who gives advice and prepares and presents cases in court.

**Special Measures**

The help for witnesses that a Court can offer so that they can give their best evidence in court. They include live video links, video-recorded statements, screens around the witness box and assistance with communication.

**Statement**

A written or video account by a witness of what he or she saw and heard.

**Suspect**

A person the police think may have committed a crime.

**T****Therapy**

Treatment of mental or psychological problems. (See Counselling)

**Trial**

This is when the magistrates or jury hear what happened and then make up their minds after they hear both sides.

## V

### **Victim**

A person who has had a crime committed against them.

### **Victim Support**

A national charity that supports victims of crime and runs the court Witness Service.

### **Video link**

Another way of describing the live link.

## W

### **Witness**

A person who gives evidence in court.

### **Witness Care Officer**

A person who works in a Witness Care Unit and provides information and arranges help for witnesses in criminal cases.

### **Witness Care Unit**

Run by the police and CPS, it provides help and information for victims and prosecution witnesses.

### **Witness Service**

A national service provided by Victim Support, a registered national charity. There are Witness Service staff and volunteers in every Crown Court centre and magistrates' court in England and Wales.



# LIST OF PUBLICATIONS AND MATERIALS

(Addresses of organisations are in List of Contacts)

## CROWN PROSECUTION SERVICE

### Code for Crown Prosecutors

The Code for Crown Prosecutors is issued by the Director of Public Prosecutions. It sets out the principles to be applied when deciding whether or not an individual should be prosecuted.

Available from any CPS office and the CPS website at <http://www.cps.gov.uk>

### CPS Policy on Prosecuting Cases of Domestic Violence

This document explains the way the Crown Prosecution Service deals with cases involving domestic violence.

Available from any CPS office and the CPS website at <http://www.cps.gov.uk>

### CPS Policy for Prosecuting Cases of Rape

This document explains the way the Crown Prosecution Service deals with cases in which an allegation of rape has been made.

Available from any CPS office and the CPS website at <http://www.cps.gov.uk>

### Provision of Therapy for Child Witnesses prior to a Criminal Trial: Practice Guidance

A joint publication (2001) by the Home Office, CPS and Department of Health that gives guidance on therapy for children before a trial.

Available from any CPS office and the CPS website at <http://www.cps.gov.uk>

### The Prosecutor's Pledge

A 10-point Pledge that describes the level of service victims can expect to receive from Crown Prosecutors.

Available from any CPS office and the CPS website at <http://www.cps.gov.uk>

*See the website for a full list of CPS publications.*

## BARNARDO'S

### No son of mine!

This video and report draw attention to the disturbing reality of boys and young men abused through prostitution.

Available from Barnardo's at <http://www.barnardos.org.uk>

### Whose Daughter Next? Children abused through prostitution

This report and video are part of Barnardo's campaign to raise awareness of the plight faced by children abused through prostitution.

Available from Barnardo's at <http://www.barnardos.org.uk>

## CRIMINAL JUSTICE SYSTEM

### **Victims Walkthrough**

An interactive virtual tour giving information about the criminal justice system from the point of view of a victim of crime.

Available at <http://www.cjonline.gov.uk>

### **Witness Walkthrough**

The Witness Walkthrough aims to guide any witness through the criminal justice system in England and Wales, explaining the role of the witness at each stage.

Available at <http://www.cjonline.gov.uk>

## DEPARTMENT OF HEALTH

### **Safeguarding Children involved in Prostitution: Supplementary Guidance to Working Together to Safeguard Children**

Guidance for police, health, social services, education and all other agencies and professionals that may work with children. Its aim is to encourage the prosecution of those who force children into prostitution.

Available from the Department of Health at <http://www.dh.gov.uk>

## EVERY CHILD MATTERS

### **Every Child Matters: Change for Children**

Every Child Matters: Change for Children is the name for a big project across England which involves everyone who works with children. This includes teachers, doctors, nurses, social workers, youth workers and many other people.

<http://www.everychildmatters.gov.uk>

## HOME OFFICE

### **Achieving Best Evidence in Criminal Proceedings**

A handbook of good practice on how to deal with vulnerable and intimidated witnesses, including children.

Available from the Home Office at <http://www.homeoffice.gov.uk>

### **The Code of Practice for Victims of Crime**

The Code of Practice for Victims of Crime sets out the services victims can expect to receive from the criminal justice system.

Available from the Home Office at <http://www.homeoffice.gov.uk>

### **The Witness Charter consultation**

This consultation document sets out the proposed standards of service for all prosecution and defence witnesses. It will complement the Code of Practice for Victims of Crime.

Available from the Home Office at <http://www.homeoffice.gov.uk>

## NSPCC

### **A Case for Special Measures**

A video produced by the General Council of the Bar and the NSPCC that describes how special measures can be used to help witnesses give evidence.

Available from the NSPCC at <http://www.nspcc.org.uk>

### **Young Witness Pack**

The pack provides information for children who must give evidence in court in criminal trials. It has been designed for 5 to 17 year-old young witnesses, their parents, carers and young witness supporters.

Available from NSPCC offices and the NSPCC website at <http://www.nspcc.org.uk>

### **Your Child is a Witness**

Information and advice for parents, foster carers or other persons accompanying a young witness to court. The book is part of the Young Witness Pack (see above).

Available from NSPCC offices and the NSPCC website at <http://www.nspcc.org.uk>

## **UNITED NATIONS**

### **United Nations Convention on the Rights of the Child**

Universally agreed basic standards that should be respected by governments. The Convention sets out the basic human rights that children everywhere have.

Available from UNICEF at <http://www.unicef.org>

## **VICTIM SUPPORT**

### **Are you OK?**

This leaflet explains how Victim Support can help children who have experienced abuse or violence.

Available from Victim Support at <http://www.victimsupport.org.uk>

## USEFUL CONTACTS

### Crown Prosecution Service

The Crown Prosecution Service (CPS) was set up in 1986 to prosecute criminal cases investigated by the police in England and Wales.

Address: CPS, 50 Ludgate Hill, London, EC4M 7EX  
<http://www.cps.gov.uk>

### Barnardo's

Barnardo's helps children, young people and their families over the long term to overcome disadvantages and problems such as abuse, homelessness and poverty.

Address: Barnardo's, Tanners Lane, Barkingside, Ilford, Essex, IG6 1QG  
<http://www.barnardos.org.uk>

### ChildLine

ChildLine is the UK's free 24-hour helpline for children and young people in danger or distress, who can call ChildLine in confidence on 0800 1111 for help with any problem.

Address: ChildLine, Freepost, NATN 1111, E1 6BR  
<http://www.childline.org.uk>

### Criminal Justice System

The Criminal Justice System (CJS) is made up of agencies such as the Police, the courts, the Prison Service, the CPS and the National Probation Service that work together to run the criminal justice process.

Address: Office for Criminal Justice Reform, 2 Marsham Street, London, SW1P 4DF  
<http://www.cjsonline.gov.uk>

### Her Majesty's Courts Service

Her Majesty's Courts Service (HMCS) administers the civil, family and criminal courts in England and Wales. HMCS covers Crown, county and magistrates' courts.

Address: Her Majesty's Courts Service, Customer Service Unit, 5th floor, Clive House, Petty France, London, SW1H 9HD  
<http://www.hmcourts-service.gov.uk>

### NSPCC

The NSPCC exists to end cruelty to children. The NSPCC wants to see a society where all children are loved, valued and able to fulfil their potential. To do this, the NSPCC has four objectives:

- to mobilise everyone to take action to end cruelty;
- to give children the help, support and environment they need to stay safe from cruelty;
- to find ways to working with communities to keep children safe from cruelty;
- to be, and be seen as, someone to turn to for children and young people.

Address: NSPCC, West House, 42 Curtain Road, London, EC2A 3NH  
<http://www.nspcc.org.uk>

### Rizer

Rizer provides information and advice for young people about the law and crime. The website includes stories, information and a helpline.

<http://www.rizer.co.uk>

### Stop It Now!

Stop it Now! is a public information and awareness raising campaign regarding child sexual abuse.

Address: Stop it Now! UK and Ireland, PO Box 9841, Birmingham, B48 7WB  
<http://stopitnow.org.uk>

## **Victim Support**

Victim Support offers free and confidential information and support for victims of crime and works to increase awareness of the effects of crime.

Address: Victim Support National Office, Cranmer House, 39 Brixton Road, London, SW9 6DZ

<http://www.victimsupport.org.uk>

## **Voice UK**

Voice UK support people with learning difficulties who have experienced crime or abuse and support their families, carers and professional workers.

Address: Voice UK, Wyvern House, Railway Terrace, Derby, DE1 2RU

<http://www.voiceuk.org.uk>

## **Witness Service**

Victim Support runs the Witness Service in every criminal court in England and Wales. Its staff and volunteers give information and support to witnesses, victims, their families and friends when they go to court.

Address: Witness Service, Victim Support National Office, Cranmer House, 39 Brixton Road, London, SW9 6DZ

<http://www.victimsupport.org.uk>

## **Youth Parliament**

The Youth Parliament aims to give the young people of the UK, between the age of 11 and 18, a voice which will be heard and listened to by local and national government, providers of services for young people and other agencies who have an interest in the views and needs of young people.

Address: UK Youth Parliament, 8 Wakley Street, London, EC1V 7QE

<http://www.ukyouthparliament.org.uk>



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Other languages and formats are available on request.