

# The case goes the Crown Court

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## 1. Who is this document for?

This practice guide is for professionals – such as police officers, social workers, teachers, healthcare workers, others with safeguarding responsibilities, the Witness Service and independent sexual violence advisers – working with a child complainant<sup>1</sup> in a case of child sexual abuse which reaches the Crown Court. It

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<sup>1</sup> In this document we use the term ‘child’ to refer to anyone under the age of 18. At times we use term ‘young witness’, which statutory guidance defines as also including anyone who was under the age of 18 when concerns of sexual abuse were reported to the police. Although the age of consent to sexual activity is 16, the criminal justice system treats a witness aged 16 or 17 who

aims to help you understand what happens during a criminal prosecution so that you can keep the child's needs and perspectives central, help them understand what is happening and why, and support them and their family effectively.

## 2. What happens when a case goes to the Crown Court?

When the prosecution's case is received by the Crown Court, there will not necessarily be a trial: **if the defendant pleads guilty**, there will be no trial and the case will progress directly to sentencing. It is possible that, following a guilty plea, the defence team may successfully apply for a 'Newton hearing'<sup>2</sup>: a 'mini-trial' of some aspects of the case heard by the judge alone. In that case, the child may have to testify and give evidence at this hearing so that some disputed facts can be established and the judge can set the appropriate sentence. Our practice guide [The court case concludes](#) explains what you can do to support the child in those circumstances.

**If the defendant pleads not guilty** to some or all of the charges, the case will progress through pre-trial and trial stages. If the case is in the Crown Court rather than the Youth Court or Magistrates' Court, the trial will be heard by a judge and jury; the Crown Prosecution Service (CPS) will prosecute the defendant(s), and the child (young witness) may be called to be cross-examined by the defence advocate (usually a barrister), since the child's Achieving Best Evidence interview will usually stand as most or all of their evidence for the prosecution (known as 'evidence-in-chief'). The child will be referred to as 'the complainant' and will not 'have a lawyer'; the prosecuting advocate will be instructed by the CPS and present the case for the Crown. Like the trial judge, the prosecuting advocate must be vigilant to ensure a fair trial for the defendant and complainant alike.

Before the trial, the judge will order that **special measures** be used for the child's testimony, **to maximise its quality**. These measures may include:

- **admitting the recorded Achieving Best Evidence interview as the child's evidence-in-chief**, to show the jury how the formal complaint to the police was made – usually this means that the child does not have to repeat the entire narrative again in court, although the prosecuting advocate may seek the court's permission to ask some additional questions relating to something not

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alleges sexual assault as entitled to the same protections as a witness under 16. See [An introduction to the child sexual abuse response pathway](#) for more about terminology.

<sup>2</sup> [What Is a Newton Hearing? Understand the Basics | Magistrate Review](#)

covered in the interview (in which case this will usually happen in a section 28 hearing – see below)

- giving evidence **behind a screen in the courtroom** or through a **live video link** from a separate room (in the courthouse or elsewhere)
- being **cross-examined in advance of the trial** in a special ‘section 28 hearing’ without a jury, the objective being to capture and record the child’s recollection while it is fresher, and to expedite their exit from the criminal justice system; this additional recording is then played to the jury at the trial
- testifying with the assistance of a **Registered Intermediary** specialising in speech and language communication, where the witness is very young or has a disability or learning difficulty.

Other special measures expected to protect young witnesses include:

- **closing the public gallery** to everyone (except one nominated member of the media, to respect the principle of open justice); this is the default option for all child witnesses
- **removal of wigs and gowns** by the advocates and trial judge, if the young witness wishes it
- **aids to communication** for very young or disabled witnesses (usually used with the assistance of a Registered Intermediary)
- giving evidence with the assistance of an **interpreter**, if the young witness’s first language is not English, or they are D/deaf.

The child should be kept out of sight of the defendant and their supporters, regardless of any special measures adopted. Further statutory protections include the following:

- A **lifelong witness anonymity order** will be made in any sex offence case. This will include any identifying information such as a home address.
- The defendant is **prohibited by law from personally cross-examining a witness** in any sexual offence case. If the defendant does not have a lawyer, the court will appoint an advocate just to conduct that cross-examination on the defence’s behalf.

The senior judiciary, the Ministry of Justice and the CPS have produced guidelines which cover how young witnesses should be treated before and during the trial. Note that this is a constantly evolving area, and guidance for all criminal justice agencies and the courts are frequently updated.

- [Judicial Protocol governing the Expedition of Cases Involving Witnesses under 10 Years \(2018\)](#), which details the working arrangements and expected

timescales among the police, the CPS and the Court Service to maximise the opportunity for very young witnesses to give their best evidence and to minimise the stress and emotional impact of the criminal justice process. The Protocol applies to a witness aged under 10 when the case is reported to the police, and who has provided an evidential statement or Achieving Best Evidence interview in support of either the prosecution or defence.

- CPS legal guidance – [Safeguarding Children as Victims and Witnesses](#) (updated October 2019) and [Guidelines on Prosecuting Cases of Child Sexual Abuse](#) (updated January 2023).
- The [Code of Practice for Victims of Crime in England and Wales \(Victims' Code\) \(2020\)](#), which establishes the expected level of service for complainants of all ages, from providing timely, accurate information about the case through to preparing for court.
- The [Equal Treatment Bench Book](#), a regularly updated handbook for the judiciary and other criminal justice professionals which aims to increase awareness of the different circumstances of people appearing in the courts, thus helping to enable effective communication and increase participation; see especially chapters 2 to 4 concerning children and young people, and physical and mental disabilities.
- The [Crown Court Compendium 2022](#) (updated twice annually) – chapters 3-6, 3-7, 10-5, and Appendix V provide guidance to judges about special measures for vulnerable witnesses, and how their testimony should be handled in court, including section 28 hearings and intermediaries.
- [Achieving Best Evidence in Criminal Proceedings \(updated 2023\)](#), the official guidance on interviewing victims and witnesses, and on special measures.

### 3. How may the child be feeling?

If their case proceeds to trial, the child may be relieved to think that the person who abused them is going to face justice, but they are also likely to be nervous at the thought of giving evidence and the implications for their family and other siblings. This is a serious responsibility which requires support.

Having to speak publicly about a sexual encounter of any sort will be stressful for anyone, of any age; it will be even more daunting for children, not least because court proceedings will probably will be an entirely new experience for them.

*“I was terrified to go to court.” (1)*

*“It’s just like re-living it all again.” (2)*

*"[I had to] air my business out to strangers ... I was forced to do that in court ... I had to find my voice that day."* (3)

*"I remember feeling like everything was just happening around me and I had no control and obviously, in a case like this, with that type of crime, a lot of control's already been taken away from you and stuff."* (4)

Unless the trial procedure and their role in it have been clearly explained, the child is unlikely to understand what is happening and may, for example, have difficulty identifying the respective roles of the advocates; they may also be anxious about things like seeing the defendant (especially during the child's testimony).

*"You're nervous about seeing the person again and being put in court, like to tell them your side of the story in front of all these people you don't know and being pressured."* (1)

*"The barrister confused me and then they had to finish it, like they had to stop everything. Yeah. [It ended] Because I couldn't go on, because I didn't know what to do or anything, because they confused me, I didn't know anything."* (4)

A witness supporter, an independent sexual violence adviser (ISVA) or a Registered Intermediary can do much to alleviate these anxieties, either by talking to the child themselves or by informing a parent<sup>3</sup> or another trusted adult:

*"[In the lead-up to court] I didn't really speak to anyone about it, I spoke to my mum. My mum got all the information and then told me, because I didn't really understand it."* (1)

While giving evidence can be difficult and sometimes frustrating for a young witness, receiving support and consideration can make it easier.

*"I had my ISVA in the live link room and I remember afterwards, she said 'I was really proud when you said, "Look I'm here to say the truth and that's what I'm saying".'" (4)*

*"They asked me what I would feel more comfortable with. I think I told them to take [wigs and gowns] off, the fact that it was easier to talk to someone, that I could know who they were."* (4)

*"Everyone who goes to court needs support 'cos court is a big experience that they should never have to do."* (4)

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<sup>3</sup> By 'parent' we mean someone in a parental or principal care-giving role to a child; this may be their biological parent, step-parent, adoptive parent, foster parent or other relative fulfilling that role.

## 4. How can professionals best help the child before and during the trial?

Much can be done to support the child and their family at this time. Some actions can be taken by any professional supporting them; others are for specific professionals in the criminal justice system to take. It is important for all professionals to ensure that the child and their non-abusing family members understand the help and support available.

This section covers:

- pre-trial therapy
- mitigating the trial's impact on the child and their family
- procedural issues
- considering whether the child would benefit from pre-trial therapy (see below)
- supporting the child when they give evidence, and afterwards; and
- considering any intersecting family court proceedings, and mitigating their impact (also considered below).

Remember that the support you give the child should be tailored to them, taking account of factors such as their age and stage of development; their sex; their ethnicity, religion and culture; any disabilities or learning difficulties they may have; and their sexual orientation and gender identity. Our practice guide [Taking account of diversity](#) contains more information. It is important to make no assumptions about a particular witness; many children are keen to have their day in court, and make excellent robust witnesses, while others may be more apprehensive and require more support.

Support and advice can be provided by any local services for children attending court where they exist, or sharing sensitive guidance about court processes such as booklets for young witnesses aged [5–11](#) and [12–17](#).

### *Pre-trial therapy*

An important question which often arises is whether the child should have access to psychological or emotional counselling during what may be a long wait to give evidence. The CPS's policy is that **the child's best interests are paramount** when deciding whether, when and in what form therapeutic help is given. **There is no reason to delay therapy for fear that this might cause a prosecution to fail. The need for pre-trial therapy should be kept under constant review**, especially if the trial date is postponed or the CPS decides not to proceed with the

prosecution. When considering counselling or therapy for the child, consult the CPS's 2022 guidance on [Pre-trial Therapy](#). The primary principles are:

- the child's health and wellbeing should always be the determinative factor in whether, when and with whom they seek pre-trial therapy
- criminal justice practitioners have no role to play in the decision-making process as to the type of therapy and its timing, beyond alerting children and parents to its availability
- there is no requirement to delay therapy on account of an ongoing police investigation or prosecution
- the police have a legal obligation to pursue all reasonable lines of inquiry, whether they point towards or away from the defendant. The police (usually on CPS advice) may request access to specific pre-trial therapy notes only where they may reveal material relevant to the investigation or the likely issues at trial, and the request is strictly necessary, proportionate and justifiable, considering the child's right to privacy under Article 8 of the European Convention on Human Rights and the Human Rights Act. There must be a properly identifiable foundation for the inquiry, having regard to the facts and issues of that particular case, not mere speculation. The child and/or their parent(s) should be informed before the therapist is approached. The prosecution will not disclose the therapy notes to the defence unless the CPS concludes that the notes are capable of undermining the prosecution's case or assisting the defence. In cases of dispute, it may be for the court to determine whether notes should be produced to the prosecution by the therapist, and disclosed to the defence, in which case those adults responsible for the child will be notified of the application and given the opportunity to address the court directly or through legal representatives. Therapy and related services can prepare for this situation by setting out and agreeing on guidelines for practice in relation to pre-trial therapy – see, for example, the Bluestar Project's [draft template for a pre-trial therapy protocol](#).

### *Mitigating the trial's impact on the child and their family*

Professionals supporting the child and family to sustain their home and school life should consider making appropriate arrangements around the court case:

- Think about the impact of the legal process on the child's **school life** – for example, would they benefit from having time out from lessons and/or consistent support from a trusted adult in the school environment?
- Consider the impact on the child's **friendships**, and on **activities** such as clubs they attend – what can you do to ensure that, where the child wants this, their life and the things they enjoy are supported?

- Consider how the child's family may be affected by **hearing their evidence**. For example, children from conservative religious families may never have spoken about sex in front of their parents before. The family may feel that the child will bring further shame on them by recounting their experiences; think carefully about how this could affect the child. It may be helpful to prepare family members by explaining why the child needs to recount their experiences in order to receive justice; you may also want to recommend to them that they do not attend the trial during their evidence. This may particularly be a concern where the defendant is a family member or friend. The police Senior Investigating Officer can approach the CPS to request an application to the court to have the child testify in private, with the public gallery cleared (apart from one media representative).

If an **independent sexual violence adviser** (ISVA) or a **child and young person's sexual violence advocate** (CYPSVA<sup>4</sup>) has been assigned to the child, they can provide support and explain the procedural steps as the case progresses through the criminal justice system, while advocating for the child's needs with the police, the CPS and court officials, and making referrals to other services. The ISVA/CYPSVA is expected to be a single point of contact for the child's family, providing accurate and impartial information, and emotional and practical support, during and after criminal and civil proceedings; some of the practical actions they can take are set out on the following pages. They are not a legal adviser, however, and must not express a legal opinion in any situation. Importantly, they must not discuss the evidence in the case, including the child's testimony. More information is available in the Home Office's guidance on [The Role of the Independent Sexual Violence Adviser](#). The child's supporters and other professionals should not hesitate to request that an ISVA/CYPSVA be allocated.

The **Witness Service** can help to make the court process less stressful by providing practical information and emotional support. Working with other professionals, the local Witness Care Unit can, for example:

- show the child the courtroom ahead of the trial – the child is entitled to such a visit – and allow them to practise on the videolink before deciding whether to use it or testify in court behind a screen (see below)
- help the child to prepare, if they need extra support
- try to arrange for the child to give their evidence at the best time of day for them, taking into account the distance they may be required to travel from home to court, so they do not have to get up exceptionally early to testify

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<sup>4</sup> Also abbreviated to CHISVA or ChISVA.

- accompany the child when they give evidence
- give support when the verdict is made and (where applicable) the defendant is sentenced
- help with claiming expenses.

*“The witness care officer was brilliant. I was on the phone nearly every day, I haven’t met her, it was just on the phone.” (6)*

*“The WCU was brilliant: we had lots of phone calls.” (6)*

*“The witness care officer was really good, always on the end of a phone. She phoned up a few times, checking if there was anything we wanted to ask.” (6)*

The Witness Service is provided by [Citizens Advice](#) (and, for cases tried in London, by [Victim Support](#) before the trial). The child’s family, their ISVA/CYPISVA, the police or any other professionals supporting the child can [make a referral](#).

### **Procedural matters**

The child and their family will not be present at any pre-trial hearings to prepare the case for trial. Before the trial, the CPS and the police will consider **which special measures** are appropriate to request and will be most beneficial to the child; they should explain these to the child, and give the child the opportunity to be consulted on them.

It will be for the court to decide on this, as its statutory priority is to maximise the quality of a young witness’s evidence.

In addition, a **Ground Rules Hearing** may be held in advance of the trial (and in advance of a section 28 hearing). This is required in all trials involving an intermediary, who is expected to attend to advise the judge and advocates as an officer of the court (i.e. the intermediary does *not* represent the child). The Ground Rules Hearing is used by the judge to make directions for the fair treatment and effective participation of vulnerable witnesses. It offers an opportunity to plan any adaptation to questioning or the conduct of the hearing to facilitate the child’s evidence. Again, the child and their family or other carers will not be present.

A **date for the trial** should be fixed in the court’s calendar. The CPS’s [Guidelines on Prosecuting Cases of Child Sexual Abuse](#) specifies that trial dates involving a child should only be changed in exceptional circumstances, while Chapter 2 of the Judicial College’s [Equal Treatment Bench Book](#) says that cases involving children should be heard as soon as possible. See also the [Judicial Protocol governing the Expedition of Cases Involving Witnesses under 10 Years \(2018\)](#). Unfortunately, at present there is often a delay before cases are heard, which can be very difficult

for the child; it will be important to consider how to manage their disappointment and expectations, including by considering the advisability of pre-trial therapy.

**Intersecting criminal and family proceedings** may be a source of great concern for the child and those supporting them. The challenges for the different agencies concerned are governed by detailed official guidance. Children's social care may undertake a joint enquiry with the police. Family Court proceedings may not pause to allow criminal prosecutions to be completed, as the child's immediate welfare and safeguarding are a higher priority than establishing anyone's criminal guilt. The focus in the Family Court is on establishing the facts to a civil standard of proof (balance of probabilities). Neither the police nor the CPS are parties to the family proceedings, nor are they present at any hearing. However, the criminal and family courts do exchange some information about the case as provided by law (see the [2013 Protocol and Good Practice Model on disclosure of information](#)), and where appropriate hold linked care and criminal directions hearings to ensure that each case is heard as quickly as possible, and in the best order. Those alleged to have abused the child are routinely joined as parties to the family proceedings as findings are sought against them. Usually the child's Achieving Best Evidence interview stands in the Family Court as their testimony against the person(s) alleged to have abused them. However, the UK's highest court has ruled that children may be summoned to be cross-examined in Family Court proceedings about any abuse they are said to have suffered. This does not routinely happen, and is a matter for the trial judge in the Family Court. If the child does appear, separate procedures and special measures for vulnerable witnesses will be used, largely mirroring those described here for criminal trials. For more information about intersecting proceedings, see the CPS's [Guidelines on Prosecuting Cases of Child Sexual Abuse](#).

### *The child's testimony*

The child will usually be called as a witness, provided the court finds them competent to testify. Children as young as three years old, and those with significant disabilities and communication difficulties, have been found to be competent, and every effort is made to ensure that their testimony is heard by the court. Testimonial competence is now set at a fairly low statutory standard: that the child is capable of understanding questions (but not necessarily all questions) and of giving answers which can be understood (with the aid of communication aids and/or a Registered Intermediary, if necessary). It is important for all involved to appreciate that the courts do not expect child witnesses to give accounts as if they were 'miniature adults'. Usually this will be demonstrated in the Achieving Best Evidence interview. The child's ISVA/CYPISVA and/or the Witness Service will help prepare them for their part in the trial. It is important that these

explanations are left to criminal justice professionals who are directly accountable to the court.

Professionals supporting the child can take a number of helpful actions in relation to their testimony:

The court and the Witness Service should carry out comprehensive **safety planning** to consider the use of the court space. For example, the child and their witness supporter (see below) should have a separate entry and exit point to the court building from the public, and separate waiting spaces away from the defendant(s) and their supporters. Thought should also be given to ensuring that the child has safe routes to waiting areas, private toilets and refreshments. These practical considerations are vital given the length of time young witnesses can spend at court waiting to be called into the courtroom.

The Witness Care Unit should arrange a **pre-trial 'familiarisation visit'** to the court setting. A trial can be a daunting prospect, and visiting the court in advance should help the child to understand the process better. A visit should be offered regardless of whether they will give evidence from the court building, via a live link in a remote location, or as part of a pre-recorded cross examination. A Witness Service representative should accompany the child and support them to have realistic expectations of the trial, without unduly raising their anxiety. If safety planning has taken place, this visit may reassure the child by showing them how things in the building are being arranged to keep them safe. Unfortunately, many British courthouses are old and not designed to accommodate young witnesses and the technology needed to support their evidence.

*"[During video-link cross-examination, the room] was small and cold. It was a bit, made me feel a bit ... queasy. It wasn't really colourful, it was just really small. I felt locked in as well because it was away at the very back room, away from Mum and everybody, so I felt locked away." (4)*

*"I was scared about it until I went to look round and then it made me feel more comfortable." (6)*

*"The visit made me feel a bit more relaxed. I knew where I was, where [the defendant] would be, rather than going on the first day and not knowing anything." (6)*

*"It helps to see the court beforehand because in the TV link room you can't see very much. It's also important to know how you get to the TV link room – it was like going through tunnels and lots of locked doors which could be off-putting." (6)*

If dealing with an unfamiliar environment is a serious issue for the child (especially if they have special needs), the Witness Service can be asked whether it might be

possible for the child to testify from a remote location, although this is often not feasible.

The police are expected to give the child an opportunity to **review what they said** in their recorded Achieving Best Evidence interview or their written statement, before they attend court for cross-examination. This is intended to **refresh their memory**, as it may be some time since the interview took place. Preferably it should happen several days before the trial rather than immediately beforehand, to help settle the child. Sometimes a Registered Intermediary, if one has been appointed by the court, will attend.

*“I was cringing, but it puts you at ease, brings things back so you remember. I’m glad I saw it again at court.” (6)*

*“Seeing the video about a week before the trial made me remember a lot [there were 13 months between reporting incident and trial] that I had forgotten and it calmed me down a lot.” (6)*

The child may be perplexed if there appear to be gaps in the video recording; it should be explained that the court has directed to edit out certain parts of the interview, such as irrelevant material, before it is presented to the jury so that they can concentrate on the main issues. It is usually not advisable to explain that inadmissible parts of the interview may have been edited out as well. Reviewing their interview may prompt the child to recall other relevant information, in which case the police officer or another person appointed by the court to monitor the process will make a note of it, to disclose to the prosecuting advocate and (if relevant to an issue in the trial) to the defence.

It is helpful for the child to have an opportunity to **get to know who the prosecuting advocate is** and what they do. The CPS’s guidance for prosecutors and prosecuting advocates on [Speaking to Witnesses at Court](#) indicates that they should meet with young witnesses to explain the process and provide assistance about answering questions, but it is important for the child to understand that the law does not generally allow discussion of their evidence. The Guidance states: *“It is important that prosecutors should not provide the detail of, discuss or speculate upon the specific questions a witness is likely to face or discuss with them how to answer the questions.”* A CPS caseworker will make a note of the meeting, to be disclosed if necessary to the defence. If the child wants to raise some new facts, it is likely that another formal Achieving Best Evidence interview will be recorded by the police Officer in the Case, which will then be disclosed to the defence. Ideally, the meeting with the prosecuting advocate will take place before the day of the trial, somewhere that feels safe for the child, and it will not be rushed, so they have opportunities to ask questions. Realistically, however, unless the child has major communication issues to be resolved requiring the prosecuting advocate’s advice in advance, this meeting may occur on the day of the child’s testimony

(whether in a section 28 hearing or in the trial itself). Moreover, those supporting the child should be aware that there may be a last-minute change of prosecuting advocate, caused by problems in scheduling trials.

### *An outline of the trial process*

The trial judge and the defence advocate may (especially in a case where the child is quite young) accompany the prosecuting advocate to meet the child in the witness support suite or the videolink room, so that their faces will be recognisable (without wigs) on the videolink and the child will know who is asking the questions. Even when this in-person visit does not happen, the trial judge should make introductions over the videolink.

*“I even met the judge before it started. She was very nice to me.” (6)*

*“The judge was proper lovely – he was so kind.” (6)*

Young witnesses are permitted by statute to have a ‘**supporter**’ with them when they give evidence, whether in person or via a live link. Before the trial starts, professionals should help the child decide who they want as their supporter; it should be someone known to them (such as their ISVA/CYPISVA or a recognised Witness Service supporter, for example). The witness supporter cannot be involved in the case in any way (as a witness, for example), and normally they cannot be a family member of the child either. The trial judge must approve the choice of supporter.

If the child’s interview was video recorded, the video will be played at the trial as the child’s evidence in chief.

If the child is 14 or over, the oath will be administered before further questioning.

The prosecuting advocate may ask additional questions (known as ‘supplementary examination in chief’), possibly to clarify certain areas in the Achieving Best Evidence interview, or to cover additional topics which the child has raised since the interview was recorded (sometimes in response to what the defendant has said in interview). If there is a section 28 hearing, any additional questions will be asked then; if the child is called to testify at trial, they will be asked at that point.

The child will then be cross-examined by the defence advocate, whose role is to test the evidence they have given. The child should be made aware that this is likely to mean that their credibility is challenged (known as ‘putting the case for the defence’). The way that this challenge is carried out will, especially for children under 16, normally have been discussed with the trial judge at the Ground Rules Hearing.

The trial judge has a duty to control the way in which the child is questioned by the advocates, ensuring that they adapt their questioning so the child can give the

best evidence of which they are capable, while ensuring fairness to the defendant. The judge must ensure that the child is able to understand the questions. The **manner, tenor, tone, language and duration of questioning** must be appropriate to the child's developmental age and communication abilities. Usually at the Ground Rules Hearing the court will require that questions for very vulnerable children are set down in writing in advance, for approval by the judge. A Registered Intermediary, if one is appointed, will have been consulted by the court, and often by a cross-examining advocate, for advice in formulating the questions. Communication aids such as sign and symbol boards or electronic devices may be specially devised by the Intermediary and approved by the court to enable that child to communicate. In cases of profound impairment, it may occasionally be necessary to have interpretation of signals by a caregiver familiar with the witness.

*"[The intermediary was] brilliant. She helped talk for me." (5)*

*"The intermediary was brilliant – a diamond. I would recommend this to anyone. Without her he wouldn't have coped. He cracked up when he got to court – I was surprised he didn't cry during his evidence. He said there were some questions that he couldn't understand but he turned to her and she helped." – mother of a child with cerebral palsy (5)*

*"My five-year-old was physically sick the night before court. The intermediary helped settle him because he was worried about not being able to answer questions. He knew he could tell her if he didn't understand." – mother (5)*

The judge is responsible for ensuring that questioning is kept to relevant matters, and for explaining to the jury any constraints on the questioning of the witness due to their youth or personal circumstances. Regular breaks in the proceedings will normally be scheduled if the child becomes distressed, often the court will agree to arise briefly to enable them to regain composure.

### **Supporting the child during the trial**

The NSPCC has produced a helpful [guidance video](#) for children attending court as witnesses. The child should be advised to wear what they feel most comfortable in to give their evidence.

However the child gives their evidence, professionals involved in the trial can think about the child's needs and consider arrangements to meet them.

Everyone working in the courtroom should try to behave sensitively towards the child – for example, by:

- **looking up and smiling** when the child arrives
- avoiding **calling the child's name** across the room

- making sure a **private space** is available for the child to have confidential conversations with their supporters
- ensuring the child **does not overhear conversations** which may cause them distress or be confidential to others.

The CPS's commitments on the conduct of court cases are set out in [the Prosecutors' Pledge](#). They include:

- promoting and encouraging **two-way communication** between the victim and the CPS prosecutor at court
- protecting victims from unwarranted or irrelevant **attacks on their character**.

### *Supporting the child after they have given their evidence*

After the child has given their evidence, their parent(s) may want to plan something to enjoy, but **the child is likely to be tired**. If you are supporting them, you can point out to the parent(s) that it is better to commend the child for telling the court the truth about what happened, rather than promising them a special present or treat for 'doing well' at court.

Trials can last for several days, so **the jury's verdict is unlikely to be reached on the day(s) when the child gives evidence**. Moreover, while the section 28 hearing is intended to expedite the child's exit from the criminal justice process, it may be many months before the trial itself is held; professionals should be aware that this wait may be very difficult for the child to bear, and should provide ongoing support, including therapy where appropriate. When the verdict is reached, the police Officer in the Case should let them know what was decided.

If the jury reaches a 'guilty' verdict, it is up to the judge to decide the **sentence**. It may be helpful to tell the child that the judge will often **delay this decision** for a few weeks, until a probation officer's report about the defendant is supplied. There will be a sentencing hearing, which the child and those supporting them may attend if they wish to, but otherwise they should be informed of the sentence by the police Officer in the Case.

If the jury could not reach a verdict it means that the Jury could not agree or considered that the evidence was not sufficient to reach a verdict or a majority verdict, the trial will conclude without a verdict. This is called "a hung jury". The accused will not be acquitted or convicted, and a retrial may be held. This will be discussed with the child and their family, as well as any other supporters, by their legal team and the Crown Prosecution Service. There may be considerable delay to organising a retrial with a new jury.

The child is likely to need continuing support after the trial. We have produced practice guides to help you support them with:

- their [emotional health and wellbeing](#)
- their [education](#)
- their [physical health](#)
- their [relationships with family and friends](#).

### ***When the prosecution offers no evidence***

On **rare occasions** the CPS will, often on the advice of the prosecuting advocate, tell the judge at the beginning of the trial that the prosecution will offer no evidence. This means that the trial comes to an end and that the judge will order that the defendant be acquitted and discharged. Something very significant, serious, and unexpected will have happened on the eve of trial which means that the prosecuting advocate thinks it is impossible to proceed with the trial.

This is always a deeply regrettable outcome, and it can be devastating for the child. It is important to ensure that they do not feel responsible for this outcome, and do not think they have been disbelieved by those who made the decision. The way that a criminal trial operates is subject to many rules to protect the integrity of the process and the verdict; the standard of proof of guilt, beyond reasonable doubt, is extremely high. The prosecuting advocate should explain to the child, if they are present, what has happened. Again, psychological therapy should be considered by those supporting the child. What is essential is that the availability of all support services is not affected by this very difficult, and rare, decision by the prosecution.

## **5. Where next?**

- [Criminal proceedings conclude.](#)

Or [return to the response pathway](#).

### **Sources of quotations**

The quotations in this practice guide, from children who have been witnesses at the Crown Court (and, where indicated, from child witnesses' parents, illustrate how the child may be feeling at this point.

- (1) Warrington, C., Beckett, H., Ackerley, E., Walker, M. and Allnock, D. (2017) [Making Noise: Children's Voices for Positive Change after Sexual Abuse. Children's Experiences of Help-seeking and Support after Sexual Abuse in the Family Environment](#). Luton: University of Bedfordshire.
- (2) Beckett, H. and Warrington, C. (2015) [Making Justice Work: Experiences of Criminal Justice for Children and Young People Affected by Sexual Exploitation as Victims and Witnesses](#). Luton: University of Bedfordshire

- (3) Rodger, H., Hurcombe, R., Redmond, T. and George, R. (2020) [\*"People Don't Talk about It": Child Sexual Abuse in Ethnic Minority Communities\*](#). London: Independent Inquiry into Child Sexual Abuse.
- (4) Marsden, H. (2017) [\*Journey to Justice: Prioritising the Wellbeing of Children Involved in Criminal Justice Processes Relating to Sexual Exploitation and Abuse\*](#). Barking: Barnardo's.
- (5) Plotnikoff, J. and Woolfson, R. (2015) [\*Intermediaries in the Criminal Justice System: Improving Communication for Vulnerable Witnesses and Defendants\*](#). Bristol: Policy Press.
- (6) Plotnikoff, J. and Woolfson, R. (2009) [\*Measuring Up? Evaluating Implementation of Government Commitments to Young Witnesses in Criminal Proceedings\*](#). London: NSPCC.

*This practice guide is underpinned by official guidance for the police, the Crown Prosecution Service, the Witness Service, and independent sexual violence advisers, and is not intended to repeat or replace that guidance. (Specifically relevant guidance is cited in section 2 and at other appropriate points above.) It should also be read alongside your local child protection procedures where applicable.*

*This guide is part of our [child sexual abuse response pathway](#), designed to ensure that professional responses to concerns about child sexual abuse meet the needs of children and their families. It aims to bring clarity to key response points, helping you keep the child's needs and perspectives central.*