

Your rights your body your life

Sexual violence and the law:
a young person's guide

Idea by

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About the authors

Rights of Women aims to achieve equality, justice and respect for all women.

Rights of Women advises, educates and empowers women by:

- Providing women with free, confidential legal advice by specialist women solicitors and barristers
- Enabling women to understand and benefit from their legal rights through accessible and timely publications and training
- Campaigning to ensure that women's voices are heard and law and policy meets all women's needs

For more information about Rights of Women check www.rightsofwomen.org.uk

The **Haven Paddington**, at St Mary's Hospital, is one of 3 Havens in London. The Havens are Sexual Assault Referral Centres providing specialist forensic, medical and aftercare support services. Women, men and children who have been sexually assaulted or raped can access the service 24 hours a day.

Follow up care such as the young person's support clinic, sexual health check ups and counselling services are available from 9am to 5pm on weekdays.

All Haven staff have been especially trained to care for and support people who have been sexually assaulted and can also give advice over the phone. The Havens are NHS services and free of charge.

For more information check www.thehavens.org.uk

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What is this guide about?

This legal guide has been written to provide you, as a 13 -17 year old, with information and support if you have experienced sexual violence. It will tell you about the law that can help you when someone acts in a sexually violent way towards you. It will also tell you about the legal process should you choose to tell the police what has happened to you.

If you don't understand something in this guide you should ask someone to explain what it means, for example you could ask a friend, a parent or carer, your teacher, a support worker or a police officer. The information in this guide is given so you know what to expect from the police and the courts.

What is in this guide?

- A **chart** which quickly tells you the key things that can happen if you tell the police about experiencing sexual violence (p10).
- The guide is in four parts: At the beginning of each part there will be a **overview** telling you what that part is about, so you can read further if you are interested. At the end of parts 1–3 there is a **brief summary** so you can quickly find out the key points you need to know.
- **Ama's story**, which is about a girl who has been raped. You can read Ama's story all at once or in small sections.
- A section (p8) which explains **key words and phrases** mentioned in this guide. It explains what sexual activity and sexual violence is.
- **Contact details** for organisations that can offer you support (p52).

Language

In this guide we refer to the person who has been hurt by sexual violence as the '**victim**', and the person who has carried out the sexual violence as the '**perpetrator**' or the '**defendant**'. The police could also use the words '**suspect**' for the perpetrator and '**complainant**' for the victim. These are words that the police and the courts use, so it is important that you know what they mean. If there are other words in this guide that you don't understand then you can look them up under key words and phrases (p8) or you can ask someone.

Women and girls are most commonly the victims of sexual violence, so that is why in this guide the victim is called 'she' or 'her' and the perpetrator is referred to as 'he' or 'him'. However, many boys and men are also victims of sexual violence and this guide can equally apply to you if you are a boy.

What is in each part of the guide?

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Key words and phrases

This is a list of key words and terms that are used in the guide that you might not know the meaning of.

Committing an offence

If a person has broken the law then they have committed a criminal offence.

Defendant

What the police and courts call the person who has been charged with a criminal offence and has to go to court.

Illegal

Something which is against the law e.g. it is illegal to rob someone.

Perpetrator

Someone who has carried out an act of sexual violence on someone else. The perpetrator may also be called the suspect or the defendant (see above).

Sexual violence

This is any act of violence that is also sexual. For example, when a person forces someone else to have sex with them.

Sexual acts/activity

Sexual activity means any sexual touching including kissing, touching any part of the body, 'fingering', 'going down' on someone, giving someone a 'blow job', and sex.

Victim

The police and courts call someone who has experienced a crime a victim. The victim may also be called the complainant.

Contraception

Methods to avoid pregnancy.

Sexually transmitted infections (STIs)

Infections acquired by sexual contact.

What is sexual violence?

There is no criminal offence which is 'sexual violence', this covers all sexual offences (see **Part 1** to find out what the different offences are).

A person can experience sexual violence from their boyfriend or girlfriend, their friends, other family members, other adults they know, as well as people they don't know. It doesn't matter who it is, it is still likely to be against the law.

You might have heard that men and boys should expect their girlfriends, wives or other girls to be sexually active with them. This is not the case in law, and any person who forces someone to be sexually active with them is likely to be breaking the law, whether or not they are in a relationship with them.

You may also have ideas about the types of people who carry out sexual violence and those who experience it. For example, some people think that if a girl or boy dresses in a certain way (e.g. wears tight clothes), or flirts with someone, or kisses them, then they are responsible if they are forced to have sex with that person. The truth is that no-one can be responsible for someone else doing something to them that they don't want or like. It doesn't matter what other people think, or what they have done or not done before. It is up to the perpetrator to take responsibility for their actions. It is not the victim's responsibility to stop the perpetrator's actions. The law recognises this.

Sometimes sexual violence can happen as part of bullying in school or outside of school. You may be told that this was a joke or that it was not serious. Whenever or however it happens, if you experience unwanted sexual activity this can be a criminal offence, and should be taken seriously by anyone you tell.

The law and the legal process to punish those who have committed sexual violence is available for you no matter who you are or what experiences you have had.

What happens when

What happens	When it happens
Incident (sexual violence)	
Contact and go to a Sexual Assault Referral Centre (SARC) or a police station	If the incident has happened within the last 7 days or if you have injuries you should contact the SARC as soon as possible. However, sexual violence can be reported to the police at any time, even years later. There is usually a time limit of 1 year from the date of the incident if you want to go to a SARC.
Forensic medical examination (It is important to get help for any health issues even if you don't go to a SARC – read page 25 for information.)	If the incident happened within the last 7 days or if you have injuries then a forensic medical examination will happen the same or next day after you go to a SARC or police station. If more than 7 days have passed an examination may not happen.
Tell police what has happened (called the initial report)	The same day (or very soon after) you go to the SARC, if you decide to tell police. Or if you go to the police station directly, the same day.
Police take witness statement	Police will either take your witness statement on the same day you make your initial report, or will set a date for the witness statement to be taken (often a few days or weeks later). At the same time police often take your victim impact statement (also called a victim personal statement) and should talk to you about special measures.
Police investigate	This can take only days or many months, depending on how much evidence needs to be gathered.
Police arrest perpetrator	Usually one of the first things to be done after you make your statement.
Police pass all evidence to Crown Prosecution Service (CPS) and discuss the case with the CPS	Depending on the case, this can happen at the beginning, a few weeks or many months after the start of the investigation. You should be updated by the police about developments.
CPS make decision whether or not to charge perpetrator	This must be made shortly after the CPS is given all the evidence.

What happens	When it happens
Victim told whether or not perpetrator charged	You should be told of the charging decision within 1 working day (24 hours) of it being made.
Perpetrator (now called defendant) has to attend court for the first time	A week or 2 weeks after he is charged at the police station, or the day after charge if he is kept at the police station overnight.
Defendant pleads guilty or not guilty of the offence he has been charged with	Either at his first attendance at court or a court hearing a few weeks afterwards (called a Plea and Case Management Hearing, a PCMH).
Defendant who pleads guilty is sentenced	Can be on the same day that he pleads guilty but likely 2-4 weeks later.
Trial date set for defendant who pleaded not guilty	Usually on the day he pleads not guilty.
Victim visits court before trial starts so they know what to expect	No set time, but usually a week or so before the trial is set to begin.
Defendant who pleads not guilty has a trial	When a trial happens depends on what court it is in. If a trial is in a Magistrates Court or Youth Court then it is, on average, 2-3 months (but can be longer) from the date the defendant says he is not guilty. Trials in the Crown Court will occur on average 6 months to a year after the defendant says he is not guilty.
Victim gives evidence at trial	The first or second day of the trial, providing the trial starts on time.
Defendant gives evidence	Towards the end of the trial. The trial could last several days or several weeks, depending on evidence.
Court delivers verdict	End of the trial. You should be told what happens.
Defendant who is found guilty is sentenced	Sometimes the same day he is found guilty, sometimes 2-4 weeks afterwards if the judge wants more information on the defendant.
Victim applies for criminal injuries compensation	An application should be made at any point within 2 years of the incident (although there can be exceptions).

Ama's story 1

What happened to Ama

Ama is a 15 year old girl and she and her boyfriend Joe have been together on and off for 6 months. Ama dumped Joe 2 days ago because she saw him kissing another girl. Last night Joe went to Ama's house when her family were not in because he wanted to get back with her. Ama didn't want to get back with him and Joe became angry and upset, and told Ama he wanted to kiss her one last time. Ama let Joe kiss her, but then Joe started to put his hand up her skirt. Ama didn't want him to and tried to take his hand away but he told her to "just let it happen". Ama was struggling a bit but was scared to say anything. Joe pulled down her knickers and they had sex. Ama was not really sure how it happened, because it was all over very quickly.

Afterwards, Ama is upset and yells at Joe to get out. When Ama's older brother, Sam, and her mum come home that evening Ama reluctantly tells them what happened. Sam says that Joe raped Ama because he had sex with her when she didn't want him to. He tells Ama that Joe must not get away with this and that they must tell the police. Her mum is also very angry.

Ama is upset and confused because she thought rape was something that strangers did to you if you were out late at night. Besides, she was sort of Joe's girlfriend. She is scared of going to the police and of what will happen. She doesn't know what to do.

Ama has been raped. A NSPCC study in 2009 found that 33% of girls between the ages of 13–17 in the UK said they experienced sexual violence, including rape, from a boyfriend or girlfriend. Has this, or something else, happened to you?

Read on to find out what rape is in the law and other sexual offences that might affect you. See part 2 of Ama's story to see what Ama does next (p23).

PART 1:

What just happened?

What the law says about sexual violence

Overview – sexual offences

- The law about sexual offences and the four main sexual offences including rape and sexual assault (p14).
- What the law says when the perpetrator argues that you wanted to have sex (p16).
- What the law says if you were drunk when it happened (p18).
- What the law says about your age and if you are under 16 (p19).

Sexual offences in general

It is illegal in the UK for someone to:

- carry out sexual activity with someone against their will;
- carry out sexual activity with a child under 13 years old, whether the child wants it to happen or not; and,
- carry out sexual activity with someone under 16 whether they want to or not.

The law that makes some sexual activity illegal is the Sexual Offences Act 2003 (for short the SOA 2003).

The 4 main sexual offences

Sexual offences that can happen to all victims over the age of 13 years old are rape, assault by penetration, sexual assault and causing someone to engage in sexual activity. If you have experienced sexual violence the perpetrator may be taken to court for one of these offences. Don't worry if you don't understand what these mean, they are described in more detail below.

Rape

Rape happens when:

- a man enters (in law this is called 'penetrates') someone's vagina, anus or mouth with his penis;
- he intends to do this; and,
- the person does not agree for him to do this, and he does not reasonably believe that the person does agree.

Rape, then, is sex, anal sex or when a person gives a man oral sex, and the person who is being penetrated or giving the oral sex does not agree to do it. A man will not be guilty of rape if he reasonably believes that the woman did agree for him to penetrate her with his penis, even if she does not (p16).

Although rape can only be carried out with a penis, sometimes another woman (not the victim) can be guilty of rape if she helps the man to do it e.g. she holds the victim. A man can be the victim of rape because his mouth or anus can be penetrated by a penis without him agreeing to this.

It is still rape even if the man does not put his whole penis inside the victim's vagina, anus or mouth and it is still rape if at first the victim says it is okay for the man to put his penis in but then says that she doesn't want him to and he does not take it out. Similarly, the victim might have wanted other sexual activity to happen, but not sex, and if the man knows she does not want to and still has sex with her, this is also rape.

Rape will still have happened if the victim has no physical injuries e.g. bruises. The majority of rape victims do not have injuries.

If someone is taken to court and found guilty of rape the maximum punishment they can receive is life imprisonment.

Assault by penetration

Assault by penetration happens when the perpetrator:

- penetrates the victim's vagina or anus (but not their mouth) using anything other than a penis;
- the perpetrator intends to do this; and,
- the victim does not agree for them to do this, and the perpetrator does not reasonably believe that the victim does agree.

The object used to enter the victim's vagina or anus can include a finger, a tongue, a vibrator, or any other object. A man or a woman can be guilty of (or 'commit') this offence, and a man or a woman can be the victim.

As with rape, someone cannot be guilty of this if they reasonably believed that the victim agreed to it (p16). If someone is taken to court and found guilty of assault by penetration the maximum punishment they can receive is to be sent to prison for life.

Sexual assault

Sexual assault happens when the perpetrator (a man or a woman):

- touches the victim (a man or a woman); and,
- intends to do this; and,
- the touching is sexual; and,
- the victim does not agree to the sexual touching, and the perpetrator does not reasonably believe that the victim does agree (p16).

If someone is taken to court for sexual assault the maximum punishment they can receive is to be sent to prison for 10 years.

So what is 'sexual'?

The law says that touching is sexual in 2 situations. The first situation is where the touching is sexual by its very nature; this is likely to be only where a penis has entered a person's vagina, anus or mouth, or a vibrator is used.

The second situation is where the touching could be sexual but it depends on where and how it happens, what the perpetrator thinks, what the victim thinks and what a reasonable person looking at the touching would think.

Examples - sexual touching

- If a man feels a woman's breasts in a bedroom and they have just kissed, this is likely to be thought of as sexual touching. If a doctor feels a woman's breasts in a hospital room as part of a necessary medical examination, this is likely not to be thought of as sexual touching.
- If the boy next to you in class brushes past you to sit down and touches your leg by accident, it is unlikely to be sexual touching, but if he puts his hand on your leg deliberately then it could be sexual touching.

Causing someone to engage in sexual activity

Causing someone to engage in sexual activity happens when the perpetrator (a man or a woman):

- makes the victim (a man or a woman) touch themselves sexually (for example, masturbate) or carry out any other sexual activity on themselves (for example, use a vibrator); and/or,
- gets someone else to sexually touch the victim or carry out any sexual activity with the victim; and,
- the victim does not agree to this, and the perpetrator does not reasonably believe that the victim does agree (see below).

If what happened involved penetration then the maximum punishment someone will receive is to be sent to prison for life. If it did not involve penetration then the maximum punishment is 10 years in prison.

Consent and sexual offences

One of the important parts of each of the 4 main sexual offences described above is that the victim does not agree for it to happen. In law, the word used to describe when a person does agree for something to happen is '**consent**'. If you do not give consent and sexual activity happens anyway, it is likely the person you were with has committed an offence.

Consent is therefore very important. When deciding consent the court will look at what you said and did to suggest to the other person that you were not consenting (in other words how the other person might have known that you did not want to do something).

Reasonable belief in consent

If the perpetrator believes that you did consent to the sexual activity (even though you didn't) then they are not guilty of the offence. The belief has to be reasonable, however, this means the perpetrator can't just say that he honestly thought you were okay with it and he will not be guilty. The police and court have to look at what happened and decide whether a reasonable person would think that the victim was okay for it to happen. For example, if the victim was saying 'no' and screaming, the perpetrator would not have a reasonable belief that the victim wanted to do it, even if he actually had a belief.

Special cases

The law says that sometimes it might be very difficult or impossible for you to say no to something. Sometimes you do not have the choice to say no because you are, for example, unconscious or afraid. There are some circumstances which, if proved to have happened, mean that it is a lot harder for the perpetrator to argue he believed the victim wanted to do it.

Examples

- Cara is asleep on the bed at a party and a boy has sex with her. Cara cannot say yes or no to sex, and so it would be difficult for the boy to argue at court that he thought Cara wanted to do it.
- Sabrina has been locked in the house by her husband and he punches her during a fight – an hour later he says they ‘made up’ by having sex. It would be difficult for Sabrina’s husband to argue that he reasonably thought Sabrina agreed to have sex of her own free will and not because she was scared to say no.

What happens if I was drunk?

The law says that when a person drinks alcohol or takes drugs voluntarily, then if they say yes to sexual activity, this is still consent and no criminal offence has happened. If you were drunk and did not consent to sexual activity, or you were unconscious and could not agree, then this is not consent.

Examples

- Holly goes out with her friends and drinks so much beer that she is drunk. A boy she fancies asks her to go to the park with him. They start kissing in the park and Holly is really enjoying herself, and they end up having sex. The next morning Holly is really upset. She knows she would not have had sex with the boy had she not been drunk.

Question: Is this a criminal offence?

Answer: This is not a criminal offence because Holly wanted to have sex at the time and was able to make this decision even if she would have made a different decision had she been sober.

- Kat goes out with her friends and drinks so much cider that she is drunk. A boy she fancies asks her to go to the park with him. They start kissing but the boy moves his hands into Kat's knickers. Even though she pushes him away, he carries on and has sex with her. The next morning Kat is really upset. She knows that she did not want to have sex with the boy but he probably thought he could because she was drunk.

Question: Is this a criminal offence?

Answer: This is a criminal offence as Kat did not want to have sex at the time and he knew this.

- Safia goes out with her boyfriend and drinks so much wine that she is drunk. She smokes a spliff as well and passes out. The next morning her vagina feels sore. Her boyfriend says he had sex with her when she was passed out. Safia is very upset.

Question: Is this a criminal offence?

Answer: This is a criminal offence because Safia could not say yes or no at the time.

- Rhiannon goes out with her friends and drinks so much gin that she is drunk. She cannot really remember what happened for most of the evening but she does remember having sex with a boy, she can't remember whether she wanted to or not. She thinks she did not want to.

Question: Is this a criminal offence?

Answer: It could be a criminal offence because Rhiannon was not able to make a decision about whether or not to have sex because of what she had drunk. However, it will depend on whether the boy reasonably thought that Rhiannon was able to decide and did agree to have sex in all the circumstances.

- Tamara goes out with her friends and drinks one cocktail. The boy who buys her the cocktail secretly puts a lot of vodka in the drink, which Tamara does not notice. Later Tamara passes out and the boy has sex with her in the back of his car.

Question: Is this a criminal offence?

Answer: It is a criminal offence because Tamara could not say yes or no to sex and it would be very difficult for the boy to argue that he thought she wanted to have sex.

Does it matter that I am under 16?

Yes - age is important when thinking about whether a person can say yes to sexual activity.

Under 13

If someone has sexual activity with a child under 13 years old then it is a criminal offence whether the child agrees to it or not. This means if it happens, then the perpetrator is guilty. The maximum punishment he can receive is to be sent to prison for life. This is because the law says that under 13 a child cannot decide properly whether or not to engage in sexual activity.

At 13 years old and over it becomes very important whether or not you agreed to engage in sexual activity with someone and you can be asked questions about this by the police and in court.

Under 16

You may have heard that 16 is the 'age of consent' and therefore it is against the law to have sex with someone under the age of 16 even if the young person wants to do it.

- If you consent to sexual activity and you are under 16, it is still automatically an offence if:
 - someone touches you in any way which is sexual, has sex with you or carries out any other sexual activity with you (called 'sexual activity with a child');
 - someone makes or encourages you to touch them in a sexual way (called 'causing or inciting a child to engage in sexual activity');
 - someone makes or allows you to see them having sexual activity with someone else (called 'engaging in sexual activity in the presence of a child'); or,
 - you watch or look at pornography with them (called 'causing a child to watch a sexual act').

If any of this has happened to you then you can contact the police. The maximum punishment for these offences is 10 or 14 years in prison.

- If you are under 16 and you do not consent, and someone:
 - Has sex with you, then this could be rape and the maximum punishment for this is that they could be sent to prison for life.
 - Touches you in a sexual way then this could be 'assault by penetration' (maximum punishment is prison for life) or 'sexual assault' (maximum punishment is 10 years in prison).
 - Makes you touch yourself then this could be 'causing someone to engage in sexual activity' and the maximum punishment for this could be prison for life or 10 years in prison.
 - Touches you in any way which is sexual or carries out any other sexual activity with you then this is 'sexual activity with a child' and the maximum punishment they can receive is 14 years in prison.
 - Makes or encourages you to touch them in a sexual way then this is 'causing or inciting a child to engage in sexual activity' and the maximum punishment they can receive is 14 years in prison.
 - Makes or allows you to see them having sexual activity with someone else then this is 'engaging in sexual activity in the presence of a child' and the maximum punishment they can receive is 14 years in prison.
 - Makes you watch or look at pornography with them then this is 'causing a child to watch a sexual act' and the maximum punishment they can receive is 10 years in prison.

You can contact the police if any of this has happened to you.

Whether you wanted to take part in sexual activity or not matters when you are under 16 because of the seriousness of different criminal offences and the type of punishment someone can receive. Forcing someone to have sex is usually seen as a more serious offence than having sex by agreement with someone who is under 16. Look at the flowchart below to work out what offences your perpetrator could be taken to court for.

What if I am under 16 and want to have sex with my boyfriend or girlfriend?

It is against the law for you and your boyfriend/girlfriend to have sex if you are under 16 and/or he/she is under 16. The law, though, is there to protect you, and it is extremely unlikely that the police will take action (if they came to know about it) against two young people who have had sex and both of them wanted to do it. It is important, however, to use contraception when having sex to protect you from sexually transmitted infections (STIs) and pregnancy.

I have had sexual activity with someone: can they be taken to court?

I am under 13	
It is likely that any sexual activity someone has with you is a serious criminal offence and they could receive a lengthy prison sentence. It does not matter whether you wanted to have sexual activity or not. If you are both, for example, 12 years old, then the police may not want to investigate but other people, such as social workers and those who care for you may want to give you advice and information to keep you safe.	
I am under 16	
I wanted to	I didn't want to
Offence of sexual activity with someone under 16. Maximum punishment they can receive is 14 years in prison. If you are both under 16 then you could both be committing an offence, but it is unlikely the police would take action in this situation.	Offence of rape/sexual assault as well as offence of sexual activity with someone under 16 years old. Can be taken to court for both.
I am over 16	
I wanted to	I didn't want to
No offence unless person you were with is a teacher or carer and you were under 18 years old.	Offence of rape/sexual assault/ assault by penetration or causing someone to engage in sexual activity depending on what happened.

Summary – sexual offences and the law

- If you are under 16 and if someone does anything sexual with you it is likely to be a criminal offence, even if you agreed to it (p20).
- If you are 13 and over and did not agree for sexual activity to take place, but someone forced you, then this is a criminal offence, providing that the perpetrator did not reasonably believe that you did agree to it (p19).
- Agreeing for something to happen in law is called consent (p16).
- Whether a perpetrator did have a reasonable belief in your consent is something that the police, the Crown Prosecution Service lawyers and the court have to look at in all the circumstances (p16).
- People who are drunk and who are still able to make decisions can consent to sex. If you are drunk and are not able to make a decision, or if you were able to make a decision and did not consent, then an offence may have been committed (p18).

Ama's story 2

Ama goes to a Sexual Assault Referral Centre (SARC)

It is now the day after Joe came to see Ama. She and Sam look on the internet for information about rape and they come across the London Havens website (www.thehavens.org.uk). Ama sees that she can contact the SARC and talk to someone there about what has happened. Ama and her mum ring the Haven in Paddington and speak to one of the nurses. The nurse tells her that she can have a forensic medical examination without immediately involving the police or Ama can contact the police and go with the police to the Haven for the examination.

Ama and her mum go to their local police station. A police officer shows them to a private room and calls a specialist officer. The specialist officer arrives and takes an initial report of what has happened and then makes an appointment at the Haven for the same day.

Ama arrives with the police at the Haven at lunchtime. After a short wait Ama sees a nurse and receives more information on the examination. Ama then agrees to the forensic medical examination. After the examination the doctor gives Ama an appointment to come back for a sexual health check up in 2 weeks' time. She is also offered support from the advocacy worker and receives an information booklet.

The specialist officer stays at the Haven during the examination and takes Ama and her mum back home afterwards. She makes an appointment with Ama to come to the police station the next day to make a witness statement. She gives Ama her name (PC Jones) and mobile phone number so that Ama can get in touch if she needs to.

Ama has decided to tell the police what happened but has not yet made a witness statement. She has had a forensic medical examination and has been given an appointment for a sexual health check up. Joe did not use a condom, so Ama was offered, and accepted, emergency contraception.

Read on to see what will happen if you go for tests and/or tell police.

See part 3 of Ama's story for what happens to Ama at the police station (p38).

Part 2:

Going to the police

Overview – going to the police

- What will happen next if you tell the police (p27).
- How to tell the police what has happened (p26).
- Medical examinations you might have (p30).
- How to give a statement to the police (p32).
- What happens to the perpetrator (p34).

Should I go to the police?

Everyone needs to make their own decision about whether they want to tell the police what has happened. Sometimes other people, for example your mum or dad, will have told the police and so you will have spoken to them already – and that's fine too.

But if you are making this decision yourself you should know that you do not have to tell the police. However, it is a good idea to tell someone what has happened to you because you may need medical or other types of help. If you don't want the people you have told to tell anyone, you will need to ask them about this first.

Do I have to tell my parents?

You do not have to tell your parents or anyone who cares for you what happened, but it is always best to tell someone who would be able to support you. The police may wish to inform whoever cares for you that you have reported to them, and also in certain situations the police need to inform social services. So if you don't want anyone to know you should discuss this with the police first. You can go to the police without permission from whoever cares for you. It is up to the police whether or not to proceed with the investigation, so they can proceed even if an adult who cares for you does not want them to. If the adult who cares for you wants the police to proceed with the investigation but you do not, you can meet with the police and explain this. The police will have to consider your views very seriously.

Some ideas about where you could go, and what help you could get

You could go to a sexual health clinic, your doctor, a hospital emergency department or contact and go to a Sexual Assault Referral Centre (SARC). If you go to a SARC then you can have a forensic medical examination by a doctor who has experience of seeing victims of sexual violence. You can decide if you want to speak to the police, who may be able to come to the SARC or you may need to meet the police elsewhere such as at the local police station. Staff from the SARC will not make you speak to the police if you do not want to.

You can also speak to (or telephone) staff at a SARC, or see your doctor, or staff at a sexual health clinic, about going to see a counsellor or a support worker to discuss what has happened. You could also contact Rape Crisis or another support organisation. At the back of this guide there is a list of organisations that you can contact if you have experienced sexual violence.

So should I tell the police?

Some people find the following factors useful in making the decision:

- The purpose of telling the police is to provide a report of a crime, allow the police to investigate and, if possible, to take someone to court for the crime. A court decides whether or not someone committed a crime, and if they did, to punish them for it.
- It may make you feel better if the court punishes someone for what they have done, and it can protect other people from the same thing happening to them.
- The police and court process can be long and you may have to give evidence in court (p44). There is no guarantee that the perpetrator will be found guilty, even after going to court.
- You may prefer to deal with things by not going to police and instead talking to a support organisation and/or going for counselling, or doing nothing at all.
- You could tell the police what has happened anonymously (not identifying yourself), either through a SARC or someone else telling the police for you, or by telephoning Crimestoppers. The perpetrator will not be arrested but it will help the police in general to know a crime has occurred. The police may try and contact you, especially if there are other reports of a similar nature.

I want to tell the police, what should happen now?

There are various ways of telling the police what has happened to you. However you decide to do it, this is called reporting a crime.

Option 1: If it is an emergency then you can call 999 and the police will come to you. This option may not be suitable if you have not experienced the sexual violence recently.

Option 2: You can visit a SARC, if there is one in your area. Contact details are at the back of this guide. Phone the centre to make an appointment; appointments can be made quickly - for example within the hour. Once there, the police can be involved if you wish.

Option 3: You can go to your local police station and tell the staff at the front desk reception that you want to report a crime. You can ask to be taken to a separate room whilst you do this, but you may have to give some basic information over the counter. You may also have to wait in a queue.

Option 4: You could find the central telephone number for your local police force (usually on the internet, or you could ring directory enquiries or dial 101) and ask to report a crime over the telephone. You should then be invited in to speak to a police officer, or a police officer will come to meet you. It is sometimes difficult to get through to your local police station so if you have tried a few times, then it may be better to go there.

What will happen if you tell the police

- Once you have reported a crime to the police this could be the start of criminal proceedings.
- The police can investigate the crime and speak to the perpetrator.
- The police can show all the evidence they have gathered to lawyers who decide whether the perpetrator should be taken to court.
- If the perpetrator is taken to court they are called the defendant.
- At court the defendant could say they are not guilty and have a trial to decide whether this is true, or they could say that they committed the crime and they will be punished for this.

Who will I meet?

The police

There are several different types of police officers you could meet:

- Front desk staff: If you have chosen to go to your local police station then the first people you are likely to meet are the police staff behind the front desk. They should all be trained to ask you questions about what happened and how to treat you with respect.
- If a police officer comes to you to speak about what happened, then they could be either a trained investigation officer or a first response officer. A trained investigation officer is more likely to take your case through the whole process whereas a first response officer will only do initial things like asking you what happened.
- At some point you will be given the details of a police officer, or perhaps someone from the Witness Care Unit (who are police or CPS, p49) as your point of contact. You will be able to contact them and they should tell you what is happening.
- Most police force areas will have a special team that take on cases of sexual violence. It may well be that all these officers will work on your case, including your police officer contact. Some other specially trained officers may take your witness statement from you which is when you tell the police what happened to you in detail.

About the police

Different people think different things about the police, depending on, for example, what experience they have had before. Police officers should be as helpful as they can be to you, but they also have to examine all the evidence, including what you say. This does not mean they do not believe you, however, and you should be treated with respect. If you feel unhappy with how you are being treated you should not be afraid to mention this to other police officers or to a parent or teacher. In fact, this applies to all the professionals mentioned, and not just the police.

The CPS

The Crown Prosecution Service (for short called CPS) are lawyers who work for the government to prosecute people for criminal offences. Prosecute means taking someone to court to try and prove that they committed the crime. The CPS considers the evidence that the police have gathered, and the law, to decide whether to take the perpetrator to court (charging on p 35).

If your case goes to court then your case will be looked after by a CPS lawyer who will ask another lawyer to go to court for the CPS (often known as a prosecutor) and prosecute your case. You will meet the prosecutor in your case but this may not be until the first day that you go to court to give evidence. In the meantime, your point of contact in the police or Witness Care Unit should tell you what is happening and answer your questions throughout. The prosecutor will be dressed in a suit and if the court is the Crown Court (p41) then the prosecutor will probably also be wearing a black gown and a white wig.

It is important to remember that the prosecutor is not your lawyer. This means they don't have to do everything you would like them to do. The defendant will have his own lawyer because he has the right to argue that he did not commit the criminal offence. As the victim the CPS represents you, but also the public in general, because crime is a public problem and everyone needs to be protected. If you are not happy with the prosecutor you should tell your police officer contact.

Other people you might meet

- **The judge:** There will always be a judge, or judges, in whatever court your case is in. If it is in the Crown Court then the judge may wear a gown and a white wig. In other courts the judge(s) will wear a suit. If your case is in the Crown Court then the judge will advise on the law and make sure everything is fair. They do not make a decision as to whether the perpetrator is guilty or not guilty because the jury do this (p41). If it is in any other court then the judge will also make a decision about guilt. All judges will decide what punishment to give the perpetrator. The judge(s) will usually not speak to you apart from sometimes when you are in court.
- **The court clerk:** The court clerk works for the court service. They sit in front of the judge and make sure everything in court runs smoothly.
- **The usher:** The usher is the person who gets people in and out of the courtroom. They will be the person who asks you to come into court if you are there to give evidence. You can speak to them about when you might be expected to go into the court but they will not be able to answer questions about your case.
- **People at the Witness Service:** When you go to court you will probably be asked to wait in a separate room where you are likely to have contact with people in the Witness Service. Staff in the Witness Service have a responsibility to make sure you know what is going to happen and where you have to go (p50).
- **Defence solicitors and barristers:** The perpetrator is allowed a solicitor and/or a barrister to represent him. It is likely they will ask you questions in court. They will explain who they are before they do this. They should not talk to you outside the court. If your case is in the Crown Court the barristers may wear a black gown and white wig.

What happens first?

First report

However you choose to report a crime to the police they will want to take a first or initial report or account from you about what has happened. This can include basic details about when, where and how everything happened and you might be asked to give names if you know who the perpetrator is. An initial report is not supposed to go into large amounts of detail. You will be asked to go into much more detail when making your witness statement. If you feel uncomfortable giving the initial report and you are in a public place, you can ask to be taken into a separate room.

It is important that you know the difference between an initial account and a witness statement. If you have made an initial account only, then the police may not start an investigation and in most cases you do not have to go along for any further investigation if you do not want to (although the police may be concerned about your safety and want to proceed). When you make a witness statement (p32) then the police will investigate and you can be expected to assist (p44).

When you first speak to the police you can have someone with you, for example a family member or a friend, for support. Even if the police would prefer them not to be in the room when you are telling the police what happened, you may find it supportive to have them waiting outside.

Forensic medical tests

If you have been sexually assaulted recently (within the last 7 days or if you have injuries) then it is likely that you will be asked to have a doctor examine you.

You might be given an early evidence kit whilst you are waiting. This is a bag with swabs (small plastic rods with a soft tip) inside. A police officer, with your permission, will rub one in your mouth to collect evidence, and you can also give a urine sample (in private). The police officer will also give you a small cup and special (sterile) water to rinse your mouth to collect evidence. If the police decide, these will later be looked at in a laboratory to see if they contain evidence.

A police officer or doctor will know what forensic medical tests to do and when to do them. They should tell you about what will happen to you and if they don't, just ask – it is important that you know what is going on.

When and where you are examined by a doctor depends on where you go.

- If you go to a Sexual Assault Referral Centre (SARC) then a doctor will do the examination at the centre. A woman doctor is usually available if you would prefer a woman to examine you, but sometimes there may not be one at the centre. If this is the case then you can request to see a woman doctor. There will also be a support worker at the centre to help you throughout the visit.
- If you report directly to the police they may take you to a SARC for the medical examination. Or, where there is no centre, the police could take you to hospital, or call a doctor who works for the police (called a Forensic Medical Examiner, an FME for short). The FME may not be a woman. If you want a woman FME, ask for one, although this can increase waiting time. In some areas the examination may be carried out by a specialist nurse.

What will happen in the forensic medical examination?

A forensic medical examination means taking any traces of body fluid (for example sperm or saliva), skin or hair that the perpetrator has left as well as looking at any injuries you might have. The doctor may want to examine your genitals (your vagina or penis). Samples will be collected and photographs may be taken of your injuries, if you have any. Many victims of rape and sexual assault do not have injuries. This does not mean their case is taken less seriously. You also may be asked personal questions, for example, about any other sexual activity that happened recently. A sample of your blood and urine may also be taken with your permission. After the examination you can have a shower at the SARC.

The doctor will always need you to agree to the examination, the doctor will not do it if you do not agree.

'Morning after pill' (emergency contraception) and sexually transmitted infections (STIs)

At the SARC the doctor can give you the 'morning after pill' and arrange an appointment for a sexual health screen and talk you through any worries you might have about sexual infections or HIV.

If you have not been to the SARC you can get the 'morning after pill' from your doctor, A&E or a sexual health clinic (sometimes called a GUM clinic and usually attached to a hospital). Or you can buy it without a prescription at a chemists shop (although the cost is over £20). There are time limits for taking it, so ask the doctor or chemist staff. If you are under 16 you may not be able to buy emergency contraception from a chemist, so go to your doctor or a sexual health clinic instead. For a sexual health screen to check for STIs you can go to a sexual health clinic and make an appointment for tests. You can ask your police officer contact about this also.

If you are not sure what to do you can always phone the SARC or a sexual health clinic for advice, even if you don't want an examination or police involvement.

Giving a witness statement

After you have given your initial account and had any medical examinations you will make your witness statement. This can happen either on the same day that you went to the police or on another day. If you are tired and do not want to make a witness statement, you should tell the police officer and ask to come to the police station another time. Sometimes the police will ask that you make a witness statement immediately, but they should explain to you why they need this quickly. You should have breaks on a regular basis if you are giving a long witness statement. If you need a break, ask the police.

A witness statement is what you say happened. You will start off telling the police what happened and then the police will ask you questions. Try to remember as much as you can, and name the perpetrator and anyone who saw or heard anything. There are 2 ways of giving a witness statement.

1. You speak to the police officer and they write down everything you say. You read what they have written and then sign it to say that you agree with what is written down. This is then your witness statement.
2. Very often in cases of sexual violence you will be videoed speaking to a police officer and answering questions. The video itself will then be your witness statement. This will be played at court if your case goes to court, and this means you will not have to go through what happened again in court (although you will still be asked questions). Any police officers with you when you are being videoed should be specially trained to take a video statement. This is called an ABE video.

You can bring someone with you for emotional support. This can be a member of your family or a support worker or someone else you trust. The police can decide whether or not that person will be allowed to sit in the room when you are talking about what happened. If you ask for the person to sit in with you and the police say no, you can ask them to explain why not.

By making a witness statement you have formally told the police that you have been a victim of crime, and so the police investigate that crime. The police and CPS also now know what you would say if the case went to court.

Victim impact statement

When you have finished making your witness statement, or at a later stage, the police may ask you to make your victim impact statement (also called a victim personal statement). This is not about what happened to you, but what effect it has had on you. For example, you can describe the impact of any physical injuries or explain what emotional impact the assault has had on you. Your victim impact statement will be given to the judge to read if the perpetrator goes to court and is found guilty (p46). It can also help the police to decide what special measures (see below) you may need.

A victim impact statement can be made by you at any stage until the perpetrator is sentenced by a judge. If you have not made a victim impact statement then you should talk to your police officer contact about it.

Special measures – protections to help you

After you give your witness statement, or perhaps before, the police should talk to you about protections available for you that, should your case go to court, make you feel more comfortable about giving evidence in court.

These protections are called special measures. Examples are:

- Having your video statement played at court, so you will not have to say everything again. You can still be asked questions in court, though.
- Standing behind a screen so that you cannot see the perpetrator and he cannot see you.
- Giving evidence through a video link so that you are not in the courtroom, but in a smaller room some distance away.
- The judge can ask all the people in the public gallery (i.e. watching) to go out of court when you give evidence.
- If your case is in the Crown Court (p41) then the lawyers and the judge can remove their wigs and gowns.
- If you need someone to help you give evidence, for example if you do not speak English well and need someone to interpret for you, or if you are deaf and need a sign language interpreter, then you can have one.
- If the perpetrator has chosen to represent himself rather than have a lawyer, he will not be able to ask you questions. A lawyer will be appointed by the court to ask you questions instead.

The police will probably discuss these measures with you and ask you at the beginning what you would want. Although a judge will have to decide what special measures you can get and whether you can get them (p45), your views are very important.

The investigation

After a witness statement is made, and sometimes in an emergency before a witness statement is made, the police will start to investigate what you have told them. The police aim to find evidence to support what you have said but they will also use evidence even if it does not support what you have said, this is their public duty. The police can investigate in lots of different ways; they can speak to witnesses, look at CCTV cameras, at medical evidence, at computers and mobile phone records. The police investigation may take only a few days or many months, depending on how much evidence there is and whether it is an emergency. Official guidance called the Code of Practice for Victims of Crime (p50) says that the police should tell you what is happening with your case and when something important happens (for example, they arrest someone) then you should be told within 24 hours.

Arresting the perpetrator

If you know who the perpetrator is then the police will want to talk to him. If you do not know who he is then the police may be able to work out who he is.

The police may arrest the perpetrator in different ways. If he has not been in trouble with the police before, and will not run away, then the police may ask him to come to the police station for a certain date and time. When he arrives it is likely he will be arrested, which means he is not free to go.

If the perpetrator has been in trouble with the police before, or if the police need to arrest him quickly, then he may be arrested at his house or work and taken to a police station.

Once at the police station the perpetrator will be asked questions by the police about what you have said. This is called an interview. He will not usually be given your witness statement, but will be told facts about when and where the offence took place. He may be told your name. He can have a solicitor with him in the interview. The interview will be tape recorded (not videoed) and the perpetrator can say what happened, or can stay silent.

The perpetrator can be held at the police station for many hours, even days. Once he has been interviewed the police have a number of options.

- They can release him **on bail** whilst they do more investigations. This means he is free to go but he must attend the police station on another date. If this happens, it is likely that he will have bail conditions not to contact you. Therefore, if he does try and contact you, or any of his friends or family contact you, you should tell the police. This can include contact using Facebook or other social networking sites. Your police officer contact should tell you when he is arrested and interviewed, and also if he has been released, and with what bail conditions.

- The police can immediately pass all the information to the CPS who will make a decision whether to take the case to court i.e. charge him (see below). If he is charged then he can be kept in the police station overnight and taken to court the next morning, or he can be let out on bail on the condition that he has to attend his first court hearing in a few weeks. He should also have a bail condition not to contact you.
- The police could decide to either give the perpetrator a warning (usually called a caution) and let him go, or not proceed with the case against him. Warnings do not happen very often with cases of sexual violence. If the police do not proceed with the case you can ask your police officer contact the reasons why.

What does ‘charge’ mean?

The decision to charge is a very important one because it takes your case from the police investigation to the courts. It is the perpetrator (not you) that can be charged. A charge means there is evidence to suggest that he committed the crime. When charged he has to go to court and he can be kept in prison.

Who makes the decision to charge and how do they make this decision?

- The Crown Prosecution Service (CPS) lawyers make the decision to charge the perpetrator. When the police think they have gathered all the evidence they will give it to the CPS who will then make the decision.
- The CPS lawyers decide whether to charge using a two stage test.

The two stage charging test

1. Is there sufficient evidence to provide a realistic prospect of conviction?

In other words, based on the evidence gathered, is it more likely than not that the court will think the perpetrator is guilty of the criminal offence? The CPS lawyers do not have to think that the perpetrator will definitely be found guilty at court. They will look at all the evidence, including your witness statement and what the perpetrator says in his interview. AND

2. Is it in the public interest to charge?

If there is enough evidence to charge the CPS then have to look at whether it is in the public interest to take the case to court. To do this they will have to ‘weigh up’ a number of factors. They have to balance the need to charge someone with a serious offence with other circumstances such as the age of the perpetrator – if he is very old or very young – or for example if going to court would put you under so much stress that it would make you ill.

Can I decide whether he gets charged or not?

It is very important to know that you do not decide whether the perpetrator gets charged or not. Your views can be taken into account by the CPS, but they do not have to be. So if you do not want the case to go to court and you tell the police this, it does not mean that the CPS will not charge the perpetrator. This is because they act for you but also for the public as a whole. If you do want the perpetrator to be charged a decision could still be made by the CPS not to charge him if, for example, it was thought there was not enough evidence.

You should be told of the CPS decision within 24 hours. You can be told by the police on the phone or by letter.

Whatever the decision, you can ask for reasons (usually in writing) as to why it was made. If the decision is not to charge, you can ask your police officer contact to set up a meeting with the CPS where you can talk to the CPS lawyer about the decision and anything you disagree with. You cannot force the CPS to look at the case again (called reviewing), but you can talk to them about why they decided not to charge and you can give your view on this. Cases may be re-opened only if there is new evidence, for example if someone else reports that they have also been sexually assaulted by the same person.

There is sometimes other legal action you can take to have a decision reviewed (called a judicial review). This is complicated, so speak to your support worker or contact a lawyer about this.

You should not feel ashamed or scared to ask for reasons and a meeting if a decision has been made that you do not agree with. Nor should you assume that the police do not believe you. The evidence has to be considered as a whole, and the CPS would not want you to give evidence in court if it was very unlikely that the perpetrator would be found guilty.

If you feel that your case has not been considered properly or if you think that you have not been treated well by the police or the CPS you can make a complaint. Details of how to complain are at the back of this guide.

Summary – the police investigation

- There are a number of ways you can tell the police what happened to you – you can visit or phone your local police station or phone 999 in an emergency (p26).
- There is a difference between the initial report you make when you first tell the police what happened and your witness statement, which will be in much more detail (p29).
- If you experienced a sexual assault within the last 7 days or if you have injuries it is likely that you will be asked to have a medical examination (p30).
- The police investigation can take days or months – this depends on the evidence and all the circumstances of the case (p34).
- The police will want you to be able to identify the perpetrator if you can and will want to arrest and interview him (p34).
- Police will usually pass all evidence to the CPS lawyers for them to decide whether or not the perpetrator should be charged with the offence (p35).
- Once charged, the perpetrator is called the defendant and has to go to court to plead guilty or not guilty.

Ama's story 3

Ama makes a witness statement

Ama is nervous about going to the police station and so Sam goes with her. After about 15 minutes in the busy reception they are shown through to a waiting room and Ama sees PC Jones, the police officer who took Ama to the SARC. PC Jones is with other police officers and explains that for her witness statement Ama will be videoed and the officers will ask her questions. Sam asks if he can come into the room with Ama. PC Jones explains that she prefers if Sam waits just outside the room.

Ama finds it very difficult to go through everything again and she is very glad when it is all over several hours later.

Before Ama leaves, PC Jones explains that Ama will now have contact mainly with a police officer called Laura, who will tell her what is happening. PC Jones explains that Joe will be arrested in the next few days, but the whole investigation is likely to take longer. Ama is given the contact details for an Independent Sexual Violence Advisor (ISVA) who may be able to help her, and also details of Victim Support. Ama is concerned that Joe might get angry when he is arrested and try to talk to her, but PC Jones tells Ama that Joe will be told not to contact Ama after he has been arrested.

On the way home Ama and Sam talk about what will happen next, and Ama realises that this will be a long process. Her feelings for Joe are very confusing, but for now she is relieved that somebody else is helping her confront Joe about what he did.

Will Ama's case go to court?

You can read about what happens when your own case goes to court below and the support you can get.

To find out what happens to Ama, read part 4 of Ama's story (p43).

Part 3:

What if the case goes to court?

Overview – what happens in court

- What will happen if the perpetrator is taken to court – the first court hearing, which court it will be in (p40).
- What will happen if you give evidence in court (p44).
- How it is decided whether you get special measures to help you give evidence (p45).
- What will happen during and at the end of the trial (p42).
- What happens if the perpetrator is found guilty (p46).

Will he be in prison?

The defendant will be charged at the police station. Once he has been charged he can be held in prison if it is thought that there is a risk he will:

- not go to court and run away or go missing;
- commit other crimes; and/or,
- try and approach you or any other witnesses and scare you.

If you are concerned that the defendant will try and contact you, you should talk to the police about this.

If the defendant is not held in prison then this means he has been given bail. But conditions can be attached to his bail so that the court can ‘keep an eye’ on him. He can be told not to contact you, and not to use anyone else to contact you. He can be told not to go to certain places or told to wear an electronic tag. The police should tell you within 24 hours of any bail conditions he has.

The defendant can be arrested and taken to court if he disobeys any bail condition, which is why it is very important that you tell the police if he tries to contact you.

The first court hearings

You will not be expected to go to court unless there is a trial. But the defendant will be expected to go to court several times before any trial. This is so that it can be decided which court will take on (or ‘hear’) the case and for the defendant to say whether he is guilty or not guilty. This is called to plead guilty or plead not guilty. If he pleads guilty he will be sentenced (p46). If he pleads not guilty then the judge will decide when the trial will take place and will make decisions on any other issues before trial.

What court will the trial be in?

Magistrates Court

Every case has to first go to the Magistrates Court, unless the defendant is 17 and under (Youth Court p42). If someone is sentenced by the magistrates they can only get a maximum of 6 months in prison for one offence, and 12 months in prison for more than one offence. Magistrates Courts are not set up to hear lengthy or complex trials. For all these reasons sexual offences usually go to the Crown Court.

If your case is heard in the Magistrates Court then the trial will be held a lot quicker after the defendant’s first time in court than in the Crown Court – usually about 3 months after. The trial will usually last about 2-3 days. The court is smaller and there will be no judge and jury but 2 or 3 magistrates or 1 judge. You will be entitled to protections to help you give evidence (p33).

Crown Court

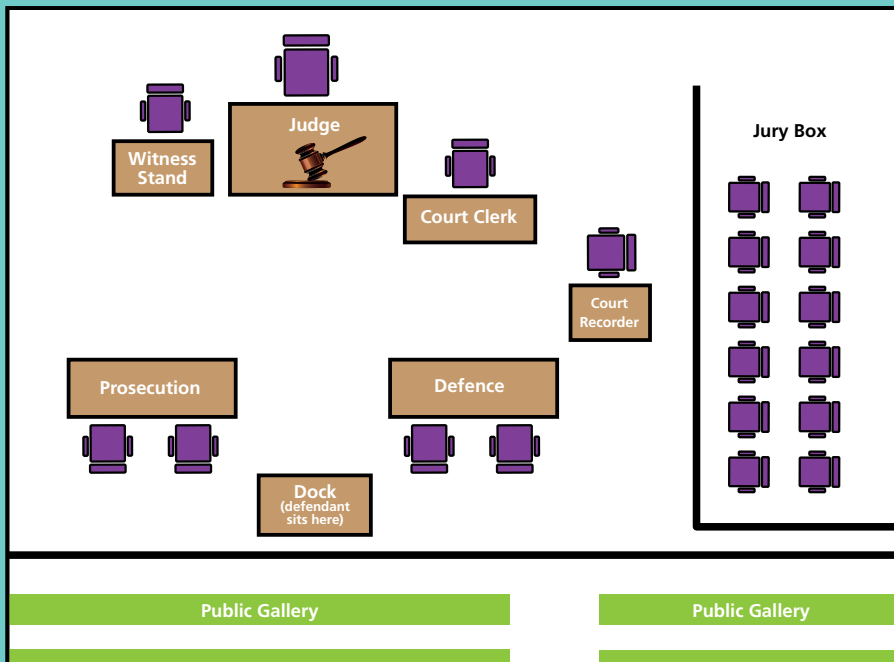
Serious criminal offences go to the Crown Court. If your case is heard in the Crown Court then it is usual to wait several months (on average 6-12) from the time the defendant first goes to court and the trial. In the court there will be a judge and jury (a jury is 12 normal people who are jurors for a few weeks).

The jury have to decide whether the defendant is guilty or not on the facts of the case, and the judge will guide them in the law and make sure the trial is fair, but does not decide whether the defendant is guilty. The judge may wear a wig and gown, and so may the barristers. There will be a barrister Prosecutor for the CPS and a barrister for the defendant.

You will be able to have certain protections (special measures) to help you give evidence in the Crown Court (p33).

If you know you will have to give evidence you can ask the staff in the Witness Service to show you around the courtroom when it is empty so that you know what it looks like and where you have to stand, and who will sit where. If you have an Independent Sexual Violence Advisor (an ISVA, p50) or another support worker they may be able to organise this and go with you.

Illustration of a court room



Youth Court

If you are under 18 the case will not automatically go to the Youth Court – this depends on the age of the defendant. If he is 17 and under your case will usually have to be heard in the Youth Court. This means that the trial will take place in a court room like a Magistrates Court and no jury will be there.

Cases are likely to take less time getting to trial than the Crown Court, but could be slightly longer than the Magistrates Court.

The Youth Court is private, which means apart from court staff, the judge, lawyers and you and the defendant and an adult to support him, no one will be allowed to come into court when you are giving evidence. In the Crown and Magistrates Courts members of the public can watch the case, unless the judge orders that they cannot. This can be a protection put in place to help you give evidence. You can ask for an adult to sit in court to support you while you give evidence

The trial: an overview

The Prosecution Case

- Opening speech from prosecutor.
- Prosecution case (when prosecution give all their evidence).
- Witnesses give evidence and are cross examined (you will be giving evidence first). Any other evidence is presented e.g. documents.

After the prosecution case, the defendant's lawyer can try and argue that the case should not continue because the prosecution have not provided enough evidence. If this argument fails then the trial will continue.

The Defence Case

- Defendant gives evidence and is cross-examined.
- Other witnesses give evidence to support defendant (if he has any).

Speeches

- Prosecutor makes a closing speech (Crown Court only).
- Defence make a closing speech.
- In a Crown Court case the judge will sum up the case to the jury – this means the judge will summarise the facts and the law that applies.

Decision

- In the Crown Court the jury decide whether someone is guilty or not guilty. This can take a matter of minutes or several days.
- In the Magistrates or Youth Court the judge(s) will make a decision, and they may also want some time to think about it, although usually this will be no more than a few hours.

Ama's story 4

Ama gives evidence at court

Ama has just finished giving evidence at Joe's trial.

It has been 8 months since Joe raped Ama. Even though Joe was charged quickly with rape and sexual activity with a person under 16 years old, it took many months for the court trial to take place. Ama found it difficult at times because Joe said he was not guilty and that he thought Ama was okay to have sex. Joe's family were very upset and said that she was ruining Joe's life.

As Joe was 19 his trial was in the Crown Court. Ama was scared when she realised she would have to go to court to give evidence and that a judge and jury would be listening to her, as well as Joe. She told the police that she was scared and they asked the CPS lawyer, Mr Tomlinson, to apply for special measures to help Ama give evidence. This was granted by the judge and so Ama answered questions over a video link. She sat in a different room and did not have to go into the court room itself. Joe's lawyers asked her difficult questions, saying that she did agree to have sex with Joe. Ama is very glad it is over, but is nervous about what the jury will decide.

What will the jury decide? Read part 5 of Ama's story to find out (p48).

Read on to find out what it will be like to give evidence and what could happen after that in your case.

Giving evidence

When the defendant pleads not guilty and has a trial you have to go to court and say what happened to you. This is called giving evidence.

When you give evidence it is likely that your video statement will be played in court. You will therefore only be asked a few questions by the prosecutor. You will be asked more questions by the defendant's lawyer. This is called being cross-examined. The defendant's lawyer will ask you questions about what the defendant says happened e.g. whether you wanted to have sex.

The defendant's lawyer will not be able to ask you questions about sexual activity you have had before unless it is **relevant** to the case. The judge has to decide whether or not the questions are relevant so the defendant's lawyers have to ask the judge before they can ask you. For example, questions that may be relevant would be questions about any sex you might have had with the defendant before. Questions about when you lost your virginity or how many people you have had sex with are unlikely to be relevant, but it is up to the judge to decide this.

What happens if I don't want to give evidence?

By giving a witness statement to the police you are saying to them that you will go to court and tell the court what has happened to you. If you don't want to go to court then you can go to the police and say this in a statement – called a withdrawal statement.

When you make a withdrawal statement the police should ask you why you want to make it. They may want to know if having special measures would help you and if you are under pressure from the perpetrator or other people. It is a criminal offence for the perpetrator to frighten you into saying you do not want to go to court.

If, in your statement, you say that you lied about what happened to you then it is possible that the police may want to arrest you for the criminal offence of perverting the course of justice or wasting police time. If all you said was true but you just don't want to go to court then it is very unlikely you would be arrested.

The CPS can consider your withdrawal statement when they decide whether to charge the perpetrator, or if he has already been charged then they may reconsider the case.

Making a withdrawal statement does not mean that the police and the CPS will stop the case. They may decide to continue because, for example, they believe that the case against the perpetrator is a strong one. If you don't want to go to court, you can only be forced to go if you are given a witness summons by court. If you do not go to court when you have been given a witness summons then you can be punished for disobeying the court. If you change what you say happened from your original witness statement then you can be questioned about this in court.

How does the judge decide if I should get special measures or not?

When you are giving evidence in court you may be able to have special measures, which are protections to make you feel more comfortable about giving evidence, like giving evidence behind a screen or by a video link so you are not in court (see p33 for other examples). Special measures should have been discussed with you at the investigation stage before the perpetrator has been charged. In order for you to get special measures the prosecutor needs to apply to the judge for them. The judge needs to decide whether the witness you is vulnerable or intimidated and if the evidence of the witness will be better if they have special measures in place. If granted, the judge will decide what measures are most appropriate for you.

As a young person, and someone who has experienced sexual violence, you will automatically be thought of as a vulnerable or intimidated witness. This does not mean you have to feel you are, but it does mean you will probably get the special measures the prosecutor applies for.

If you want special measures, or want to know about them, then you should ask your police officer contact.

Will my name be mentioned in newspapers or on TV?

As a victim of sexual violence the media (newspapers, radio, TV) are not allowed to name or identify you. They can name the defendant unless by naming him it will be easy to work out who you are e.g. he is your uncle.

What happens after I give evidence?

After you have given evidence you need to wait until the judge says that you are free to go. Sometimes witnesses may be asked to come back to court for more questions, although this does not happen often.

Before you have given evidence you cannot go into court to hear what is being said. After the judge has told you that you are free to go then you can either leave or sit in court and listen to the rest of the trial (you may not be able to do this if the trial is in the Youth Court).

At the end of the trial it will be decided if the defendant is guilty or not guilty. If you are not in court, then you should be told what happened by your police officer contact.

Not guilty

The judge or the jury have to be satisfied so they are sure that the defendant is guilty before they can say he is guilty. This means they have to be 100% certain that he committed the offence.

If the defendant is found not guilty this does not mean that everyone in court thought you were lying. It means that on all the evidence there was some doubt that he committed the offence. If he is found not guilty, the defendant will not get a criminal record and will be free to leave court. If a jury cannot decide whether or not the defendant is guilty (called a 'hung jury'), then another trial date may be set. This will be explained to you if it happens.

Guilty

If it is decided that the defendant is guilty then he will get a criminal record and he will be punished. The punishment he receives is called his sentence, and the judge will decide what sentence to give. He will either be sentenced straight away or his case will be put off for a few weeks so that reports can be prepared about him for the judge to read.

Sentencing

No one can be exactly sure what the defendant will receive as a sentence. What the defendant gets as punishment depends on lots of different factors:

- What has happened to you.
- What you say in a victim impact statement (p33).
- Whether there was anything that made the offence more or less serious e.g. use of a weapon.
- What the defendant says about himself and what professionals write about him.
- Legal guidelines that say what sentence each offence should get.

What sentence will he get?

For most sexual offences the defendant will receive a length of time in prison. The average prison sentence for rape is 7 years. Usually the defendant will spend half of whatever prison time they get in prison and the other half out of prison but being monitored by the probation service.

If the defendant has received a prison sentence of over 12 months then you may be contacted by the probation service when he is about to be released. You can tell them any special conditions you want him to have when he leaves prison, for example, that he must not go within a certain area. If he breaks any conditions given to him then he can be returned to prison.

There are other types of sentence available as well as prison. If the defendant does not get a prison sentence you can ask your police officer contact or any support worker you have.

If the perpetrator is 17 years old and under old he will be sentenced differently. If he is sent to prison he will go to a young offender's institution rather than a prison.

A person who is guilty of a sexual offence is likely to have reporting requirements (called 'being on the sex offender's register') which means that where they live and travel will be monitored. The length of time they will be on the register depends on what offence is committed and what sentence the defendant receives. The defendant may get other types of orders as part of his sentence that say what he can and can't do in future. If this happens, these orders can be explained to you by your police officer contact or support worker

Appeals

The defendant can ask another judge to examine his sentence if he thinks it is too severe, or he can ask for another judge to reconsider the fact he was found guilty. This is called an appeal.

If the trial was in the Magistrates Court (p40) then he can appeal to the Crown Court, and you may have to give evidence again. If the trial was in the Crown Court (p41) he has to appeal to a higher court (the Court of Appeal) and it is unlikely you will have to give evidence. You should be told if the defendant is appealing.

In rare cases the CPS can decide to appeal if the defendant was given a very 'light' sentence. This is up to the CPS to do, but you can ask the prosecutor about it if you want. If you think the prosecutor should appeal and does not, you may be able to appeal yourself. However, this is rarely done without the support of the CPS. If you want to know more about this then ask your police officer contact or support worker.

Summary – going to court

- The perpetrator will be called the defendant in court; you will be called the victim or a witness.
- The court will consider which court the case should be in and will decide whether the defendant should be given bail or be in prison until the final court hearing (p39).
- The defendant will be asked to plead guilty or not guilty.
- If he says he is guilty he will be punished (called sentenced) and get a criminal record, and you will not need to go to court.
- If he says he is not guilty of the criminal offence he will have a trial to decide whether he is telling the truth, and you will have to come to court to give evidence (p44).
- Protections are available to help you give evidence (p45).
- If the court decides the defendant is guilty then after the trial he will be sentenced. This is likely to be time in prison but does not have to be (p46).

Ama's story 5

The outcome of the trial

Ama is watching TV when she gets a call from the police to tell her that yesterday Joe was found guilty of rape and was sentenced to 2 years in prison. Ama is glad Joe will be punished, but she feels sorry for Joe's family.

Ama knows that things have changed – she feels more nervous around boys now, and her mum is more protective. Sam says that this will get better as time passes, and Ama has had some counselling from a woman her GP suggested. This has helped Ama realise what happened was not her fault. Although Ama wishes that night with Joe had never happened, she is beginning to enjoy her life again and look forward to the future.

Ama received some support to help her after she was raped. Read on to find out what help and support you could get.

Part 4:

Support during and after court

Overview – support available

- **The Witness Care Unit, Witness Service, Victim Support and Independent Sexual Violence Advisors (ISVAs)** can all offer different types of help and support to you (see below).
- **The Code of Practice for Victims of Crime** states what you can expect from police, CPS and other staff within the courts, prisons etc and what information you should get about your case (p50).
- You can also seek counselling or therapy (p51).
- Compensation for what you experienced may be given to you if you apply to the **Criminal Injuries Compensation Authority** (p51).

The Witness Care Unit

The Witness Care Unit ensures that once the defendant is charged you are supported in going to court. The Witness Care Unit is made up of police and CPS workers. It is their role to:

- Make sure you can contact a single named police officer for updates.
- Help you to get to court and get what you need at court e.g. an interpreter.
- Inform you about the case.

Ask the police if they have not yet put you in touch with the Witness Care Unit.

The Witness Service

Each court has a Witness Service, whose staff make sure that you are supported when you come to court. The Witness Service can:

- Arrange for you to visit the court before you come to give evidence.
- Provide a separate waiting area for you.
- Provide emotional support when you go to court.
- Provide practical help e.g. helping you to claim travel costs.

Victim Support

Paid and voluntary workers can help you with practical information and offer you emotional support after you have reported what happened to you to the police. Victim Support workers may be able to support you by:

- Visiting your home to speak to you about any problems you have following telling the police.
- Giving you information about court, and contacting the police for you.
- Helping you apply for criminal injuries compensation (see below).

When you report to the police you should be given details about Victim Support. If you are not, then you can ask to be given details at any time. Contact details for Victim Support are also at the back of this guide.

Independent Sexual Violence Advisors (ISVAs)

ISVAs give specialist support to those who have experienced serious sexual violence. An ISVA may be able to support you by:

- Going with you to the police station to give your witness statement.
- Helping you to get healthcare and counselling.
- Helping you understand the court process and going with you to court.
- Speak to the police, CPS and others if you have not been treated well.

ISVAs are based in some Sexual Assault Referral Centres, Rape Crisis Centres and police stations. Wherever they work an ISVA is independent from the police, the CPS and the court. Not everyone who reports sexual violence can have an ISVA, but the number of ISVAs has increased in recent years.

The Code of Practice for Victims of Crime

The Code of Practice for Victims of Crime is guidance about how to treat victims that the police, the CPS and others (including the courts service and probation) should follow. It gives you:

- A right to be told about developments in your case within 24 hours.
- A right to information about Victim Support and compensation.

- How to complain about the police, the CPS, the courts service etc.
- A right to assistance if you are being contacted by anyone who is guilty of an offence and he is in prison.
- A right to be told, and your views considered, when the perpetrator has been sentenced to 12 months or more and is about to be released.

Counselling

You can ask for counselling from a support organisation e.g. a SARC, Rape Crisis or from your GP.

Criminal injuries compensation

If you have experienced sexual violence and you have reported what happened to you to the police, then you may be able to get some money in compensation for what happened from the Criminal Injuries Compensation Authority (CICA). This is an organisation that gives money to those who have had an injury as a result of a violent crime. Most sexual offences are automatically considered to be violent crimes.

To get compensation you have to have been the victim of a crime in England and Wales and you have to have reported it to the police. It does not matter if the perpetrator was not charged; you can still get compensation if you reported what happened. There is a 2 year time limit in which you can apply. If you are applying over the time limit but you explain why, it is possible to still receive compensation e.g. if you were sexually abused when you were younger and you did not know about compensation. To get a full award you also have to have worked fully with the police, the CICA and other authorities.

If you want to apply for criminal injuries compensation you can ask the Criminal Injuries Compensation Authority for an application form and fill it in. You may be able to get a solicitor to help you free of charge. If you cannot find one, you can ask Victim Support, or go to a Citizens Advice Bureau or a Law Centre. To find a solicitor you can contact Community Legal Advice (p54). It is likely you will need the help of an adult to contact a solicitor.

Can I get other compensation?

- It may be possible to sue a perpetrator for damages. This is when you ask a civil court (not a criminal court) to decide whether it is more likely than not that he caused you damage. There are time limits for applying for compensation, and the law is complex, so contact a solicitor (you may have to pay for advice).
- When the defendant is sentenced in the criminal court the judge may be able to order him to pay you compensation. Whether you can be given this depends on the case. If you want to know more about this, speak to your police officer contact.

Useful contacts

National support organisations

- **ChildLine**
ChildLine is for children and young people. It provides confidential information and advice on lots of different issues
Helpline: 0800 1111 (24 hours)
www.childline.org.uk
- **NSPCC**
Helpline for adults concerned about a child
Helpline: 0808 800 5000 (24 hours)
Email: help@nspcc.org.uk
www.nspcc.org.uk
- **National Domestic Violence Helpline**
Helpline: 0808 2000 247 (24 hours)
Email: helpline@womensaid.org.uk
www.nationaldomesticviolencehelpline.org.uk
- **Samaritans helpline**
Emotional support
Helpline: 08457 90 90 90 (24 hours)
www.samaritans.org
- **Brook Advisory Centres**
Free, confidential information on sexual health for under 25s
Helpline: 0808 802 1234
(Mon–Fri 9am–5pm):
Interactive text message service:
07717 989 023 (Mon–Fri 9am–7pm)
www.brook.org.uk

Support organisations for those who have experienced sexual violence

- **Rape Crisis Federation**
Helpline: 0808 802 9999
(Mon–Fri 12–2.30pm & 7pm–9.30pm)
Email: info@rapecrisis.org.uk
www.rapecrisis.org.uk
- **London Rape Crisis Centres**
Helpline: 0808 802 9999
www.rapecrisislondon.org
- **The Survivors Trust**
Telephone: 01788 550554
www.thesurvivorstrust.org
- **Victim Support**
Helpline: 0845 3030 900
(Mon–Fri 9am–9pm, Weekends 9am–7pm, Bank Holidays 9am–5pm)
Email: supportline@victimsupport.org.uk
www.victimsupport.org.uk
- **Women and Girls Network**
Helpline: 020 7610 4345
(Tues & Wed 6.30pm–8.30pm, Mon, Fri & Sat 10am–1pm)
Email: info@wgn.org.uk
www.wgn.org.uk

- **Respond**

Support for learning disabled people

Helpline: 0808 808 0700

(Fri 12.30pm–4pm)

Email: admin@respond.org.uk

www.respond.org.uk

- **Survivors UK**

Support for men and boys

Helpline: 0845 122 1201 (Mon

& Tues 7pm–9.30pm & Thurs

12pm–2.30pm)

Email: info@survivorsuk.org

www.survivorsuk.org

- **GALOP**

Support for lesbian, gay, bisexual and transgender people

Helpline: 020 7704 2040

Email: info@galop.org.uk

www.galop.org.uk

Sexual Assault Referral Centres (SARCs)

You might be given the option of going to a SARC. Specialist staff will ask you about what happened and may offer you a medical forensic examination to find evidence of what happened to you. You can self refer to the SARC or ask someone else to call for you. The SARC can support you in reporting to the police if you wish to do so, but this remains your choice. SARCs can advise you on a possible pregnancy and STIs. You can also access other support such as advocacy and referral to local services.

For anyone living in London the Havens (SARCs) will be able to offer you help and they can be contacted at:

Haven Camberwell

King's College Hospital

Denmark Hill

London SE5 9RS

020 3299 1599

(9am to 5pm Mon to Fri)

020 3299 9000 (at all other times)

Haven Paddington

St Mary's Hospital

Praed Street

London W2 1NY

0203 312 1101

(9am to 5pm Mon to Fri)

0203 312 6666 (at all other times)

Haven Whitechapel

The Royal London Hospital

Whitechapel

London E1 5BD

0207 247 4787 (at any time)

For more information on the Havens, click on www.thehavens.co.uk

If you live outside London you could try to find a SARC using NHS Choices Service Directory www.nhs.uk/ServiceDirectories. Search for 'Rape and Sexual Assault Support' and enter your postcode to find the service closest to you. Alternatively you can contact local Rape Crisis Centres / Victim Support centres.

Legal advice

- **Community Legal Advice**

Advice line: 0845 345 4 345 (Mon–Fri 9am–8pm, Sat 9am–12.30pm)

Search for a solicitor online at:

<http://legaladviserfinder.justice.gov.uk/AdviserSearch.do>

- **Rights of Women**

Callers must be women and over 18

Criminal law advice line: 020 7251 8887 (Tues 11am–1pm and Thurs 2–4pm)

Email: info@row.org.uk

www.rightsofwomen.org.uk

Criminal injuries compensation

- **Telephone: 0300 003 3601 (Mon–Fri 8.30am–5pm except Wed 10am–5pm)**

www.cica.org.uk

Complaints

- **CPS**

Visit CPS website at www.cps.gov.uk/contact/feedback_and_complaints/ for how to complain or provide other feedback to the CPS

- **Police**

Independent Police Complaints Commission,

90 High Holborn, London, WC1V 6BH

Customer Services: 08453 002 002 (press 1 at prompt – 9am–5pm)

Email: enquiries@ipcc.gsi.gov.uk

www.ipcc.gov.uk

Sentencing and defendant release after prison

- **Prison Service Victim Helpline**

National Offender Management Service

Victim Helpline: 0845 7585 112 (Mon–Fri 10am–4pm),

www.hmprisonservice.gov.uk

All telephone numbers and website addresses correct at time of going to press, May 2012.

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Disclaimer: The guide provides a basic overview of complex terminology, rights, laws, processes and procedures for England and Wales (other areas such as Scotland have different laws and processes). This guide is for information purposes only and is not legal advice. The information contained in this guide is correct to May 2012. The law may have changed since then so you should seek legal advice on the current law and your situation. Rights of Women and the Haven Paddington cannot accept responsibility for any reliance placed on the legal information presented in this guide.

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the havens

