



From Charge To Trial: A Guide To Criminal Proceedings

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This legal guide sets out information about what happens once the perpetrator has been charged with a criminal offence.

There are a number different of ways that adult survivors of domestic abuse and/or sexual violence can use the law to seek justice and protection. One of these ways is to use the criminal justice system, which starts when the victim reports the perpetrator of the offence to the police.

This legal guide sets out information about what happens once the perpetrator has been charged with a criminal offence. If you are currently deciding whether to report an offence to the police – or if you have done so but the perpetrator has not yet been charged – then please see Rights of Women’s legal guide [Reporting an offence to the police: a guide to criminal investigations](#).

Language in this guide

Domestic abuse and sexual violence are most commonly perpetrated by men against women. In this guide, we refer to the perpetrator of violence throughout as “*he*” and the victim as “*she*”.

We will use the terms “*perpetrator*” (before charge) or “*defendant*” (after charge) to describe the abuser and “*victim*” to describe the survivor, as these are the terms most commonly used in law.

What is domestic abuse?

The Domestic Abuse Act 2021 defines domestic abuse as any incident or pattern of incidents between those aged 16 years or over who:

- are, or have been, married
- are, or have been, civil partners
- have agreed to marry (whether or not the agreement has now ended)
- have agreed to enter into a civil partnership (whether or not the agreement has now ended)
- are, or have been, in an intimate personal relationship
- have, or there has been a time when each have had, a parental relationship in relation to the same child
- are relatives

The Domestic Abuse Act 2021 outlines the following behaviours as abuse:

- physical or sexual abuse
- violent or threatening behaviour
- controlling or coercive behaviour
- economic abuse
- psychological, emotional, or other abuse

What is sexual violence?

Sexual violence is any kind of sexual activity which took place without consent. Consent means agreeing to something by choice and having both the freedom and capacity to make that choice. This guide focuses on sexual violence that takes place between adults.

There are lots of different types of sexual violence, including rape, assault by penetration and sexual assault. The Sexual Offences Act 2003 sets out the law in relation to these offences.

You can find information about the different sexual offences on the Rights of Women website at: <https://rightsofwomen.org.uk/get-information/criminal-law/>.

Rights of Women also has a handbook on criminal justice processes specifically for survivors of sexual violence, [From Report to Court: A handbook for adult survivors of sexual violence](#).

The decision to charge

Once an offence has been reported, the police should investigate and then pass the evidence to the **Crown Prosecution Service (CPS)** to decide whether to charge the perpetrator with an offence. The CPS also prosecute the case – which means prepare and present it at court.

See the Rights of Women's legal guide [Reporting an offence to the police: a guide to criminal investigations](#) for more information on how the police or CPS decide whether to charge a suspect.

Bail

When a defendant has been charged with an offence he can either be released on bail or remanded in custody ahead of his next court hearing. **Custody** means being kept in prison.

If a defendant is released on bail, this means he is free to leave custody until his next court hearing, but he may be subject to rules called **bail conditions**. These are requirements that the police or courts considers necessary to ensure the defendant turns up to court and does not commit any further offences or interfere with witnesses while he is on bail. For example, he can be ordered not to contact the victim or witnesses directly or indirectly, to stay at a certain address or to report to the police station at regular intervals.

If a defendant is remanded, this means being kept in police custody overnight and taken to court the next morning, where he can apply to be released on bail. When deciding whether or not to grant a defendant bail the court will consider a number of factors, including the seriousness of the offence, whether the defendant has committed offences before and the strength of the case against him. If he is refused bail, he will stay in custody until his next court hearing.



If you are concerned about whether the defendant will be granted bail, or what his bail conditions might be, you can discuss concerns with the police officer dealing with your case or the Witness Care Unit. Your views should be passed to the CPS who should then take them into consideration when making arguments about bail to the court.

Keeping informed

When a perpetrator is charged with a criminal offence, the victim should be given a single point of contact for updates and information about what's happening. This could be either a police officer or a staff member of the Witness Care Unit. Witness Care Units are joint units staffed by representatives from the police and CPS. They are responsible for supporting anyone who gives evidence for the prosecution in criminal proceedings.

If you have not been contacted by the Witness Care Unit after the defendant has been charged, talk to the police officer dealing with your case and ask them to put you in touch with the relevant Unit for your case.

You may be offered specialist support from an Independent Sexual Violence Advisor (ISVA) or an Independent Domestic Violence Advisor (IDVA). ISVAs and IDVAs can assist you to access services and support you through the investigation and any court proceedings. Different areas will have different schemes for providing ISVAs and IDVAs, but you can ask the police officer dealing with your case or the Witness Care Unit for more information on availability in your area.

You can also access advice and support from Rights of Women's criminal law helpline, Victim Support, other victims' support groups in your area or organisations supporting victims of sexual violence (e.g. Rights of Women, Rape Crisis) and domestic abuse (e.g. Refuge, Women's Aid). See [Useful Contacts](#) at the end of this guide.

Which court?

All criminal proceedings start in the magistrates' court, where cases are heard by a panel of three magistrates' (volunteers who hear cases in their community) or one District Judge (a paid judge).

However, some cases are transferred to the Crown Court for trial or sentence. In the Crown Court, a jury decides whether a defendant is guilty or not guilty. A **jury** is a panel of people selected at random from the public using the electoral register. A judge provides the jury with advice on the law, and decides on the sentence if the defendant is found guilty.

If the defendant is aged 18 or under then the case will likely be heard in a Youth Court, a special type of magistrates' court where proceedings are less formal and heard by specially trained magistrates or a District Judge.

What happens at court?

If the defendant pleads **guilty** at either the magistrates' court or Crown Court then he will receive a criminal conviction and be sentenced. You will not usually need to attend court at all if the defendant pleads guilty, but you can if you wish to.

If the defendant pleads **not guilty** at either the magistrates' court or Crown Court, a date for a trial will be decided. This may be quite some time in the future. In most cases you will be required to come to court to give evidence at the trial.

Giving evidence at court

Giving evidence at court means answering questions from the prosecution lawyer which help you describe what happened to you in your own words (called the Examination-In-Chief), and also answering questions from the defence lawyer (called the cross-examination). The defendant's lawyer has to put forward what the defendant says, but they should not be aggressive or intimidating. The judge or prosecutor should intervene if they are.

If your witness statement was videoed (sometimes called an Achieving Best Evidence ("ABE") video, or a Video Recording Interview ("VRI")), then it will probably be played at court and you will not have to go over your evidence again (for more information about witness statements see Rights of Women's legal guide [Reporting an offence to the police: a guide to criminal investigations](#)). However, you will still need to answer any questions the defendant's lawyer has for you.

If the judge decides the video of your evidence should not to be played in court, or you have made a written witness statement, the prosecution lawyer will ask you to tell the court what happened to you.

If you are worried about this, you can discuss this issue with your police officer or Witness Care Unit contact prior to giving evidence, or your IDVA/ISVA if you have one supporting you.

Support at court

If you would like to, you can visit the court to look around before the trial happens. This is organised by the Witness Service. If you would like to do this then contact your police officer or [the Witness Service](#). The Witness Service is provided by Citizens Advice and provides practical and emotional support for witnesses about going to court. This is different from witness care units which are staffed by people from police or CPS and provide support from charge all the way through the criminal justice process.

On the day, there should be a separate waiting area for you, so you should not cross paths with the defendant.



You should also be able to read your statement through or watch your ABE video to refresh your memory before you go into court.

Sometimes, the ABE video will have been edited. This is a decision taken by the judge, and edits will have been negotiated and agreed between the prosecution lawyer and the defence lawyer. If you have concerns about the editing then you can raise this with the prosecutor and ask them to explain the edits.

Special measures

Survivors of domestic abuse and sexual violence are likely to be entitled to **special measures**. These are practical things to help you give your best evidence. This could include giving evidence from behind a screen so that the defendant cannot see you, or giving evidence by video link so you do not have to go into court.

Special measures need to be asked for by the prosecution on your behalf before the start of the trial. The judge or magistrates will decide whether to grant the application.

If special measures have not been discussed with you, contact your police officer or Witness Care Unit contact.

Many victims of sexual violence are also entitled to anonymity in the media, so that their name or other information that could identify them cannot be made public by reporters. This is automatically in place and does not need to be applied for.

For more information about special measures, see the Right's of Women legal guide [Special measures in the criminal and family courts](#).

What if I don't want to give evidence?

You can contact the police and make a withdrawal statement to say that you don't want to go to court.

If you do this, the police may ask if having special measures would help you give evidence. They may also want to know if you have been put under pressure from the defendant or other people to withdraw your support from the prosecution. It is a criminal offence for the defendant or anyone else to frighten or put pressure on you to say that you do not want to give evidence.

If you tell the police that you lied about what happened to you then the police may choose to investigate the criminal offence of perverting the course of justice or wasting police time.

Making a withdrawal statement does not mean that the police and the CPS will automatically stop proceedings. They may decide to continue because, for example, they believe that the case against the defendant is strong and they have enough evidence for him to be found guilty without you giving evidence.

You can only be forced to go to court if you don't want to if you are given a witness summons. This is a court order requiring you to attend court on the date specified.

After you have given evidence

After you have given evidence in court, the prosecutor will present any other evidence they have. This may include questioning other witnesses that support the prosecution, and the defence lawyer will have the opportunity to question them too.

The defence then present their evidence, which may include the defendant giving evidence and being asked questions, along with any other witnesses that support the defence. The prosecution lawyer will have the opportunity to question them too.

The prosecutor and defence lawyer may finish by making speeches to the court to sum up their case.

After this, a decision is made about whether the defendant is guilty or not guilty. In the Crown Court this decision is made by a jury, who are guided on the law by a judge. In the Magistrates' Court and Youth Court, the decision is made by a judge or a panel of magistrates.

Once you have given your evidence, you can choose to stay in court and watch the rest of the proceedings, or you can choose to leave straight after and you will be contacted to be told what happened.

Conviction

If the defendant is found guilty he will receive a criminal conviction and will be sentenced. The sentencing might happen on the same day, or at a future date if the case is postponed (often referred to as being **adjourned**) for pre-sentence reports to be prepared about the defendant.

If he is found not guilty then he will be free to leave the court and will not have a criminal conviction.

The defendant can only be convicted if the magistrates, judge or jury are sure that he is guilty of the offence. If the defendant is found not guilty it does not mean that the court did not believe you, it means that the prosecution was not able to prove the defendant's guilt to the required standard.

Sentence

The judge or magistrates decide what sentence the defendant receives after he has pleaded guilty or been found guilty at trial. What the defendant receives as his sentence depends on different factors including legal guidelines and what the pre-sentence report recommends.

Your victim personal statement (VPS) should also be read and taken into account by the court at sentence. A VPS is a statement taken from you after you give a witness statement to the police, or at any stage in the proceedings up to sentence, and is your chance to indicate the impact the abuse has had on you and your daily life.

If you have not made a VPS and want to make one, you can contact your police officer or Witness Care Unit contact.

See Rights of Women's legal guide [Sentencing in the criminal courts](#) for more information on sentences.

Restraining orders

As well as imposing a sentence, a judge or panel of magistrates can order the perpetrator not to further abuse or harass you if they deem it necessary to protect you from harassment. This is called a restraining order. It is usually applied for by the prosecution.

Any breach of a restraining order is a separate criminal offence.

Importantly, a restraining order can be imposed for any offence and can be imposed on a defendant even if he was found not guilty.

For more information about restraining orders please contact Rights of Women's criminal law advice line or read Rights of Women's legal guide [A guide to domestic violence injunctions](#).

Criminal injuries compensation

If you received a physical and/or psychological injury as a result of a violent crime then you may be entitled to receive compensation through the Criminal Injuries Compensation Scheme. You can apply for compensation even if the perpetrator was not charged (but you must have reported what happened to the police).

For more information, see Rights of Women's legal guide [A guide to criminal injuries compensation](#).

The Victims' Code

The Code of Practice for Victims of Crime (also known as the Victims' Code) sets out the service survivors can expect from the police, the CPS and other agencies involved in the criminal justice system. You can ask the police officer dealing with your case for a copy, or [view it online](#).

All victims of domestic abuse and sexual violence will be entitled to an enhanced service from these bodies. This includes being of major developments in the case (such as a decision about whether to charge) within 24 hours.

If you are concerned about your treatment by the police or CPS or any other agency mentioned in the Victim's Code, you can contact Rights of Women's criminal law advice line (see [Useful Contacts](#)).



The law is complex and may have changed since this guide was produced. This guide is designed to provide general information only for the law in England and Wales. You should seek up-to-date, independent legal advice. Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.

Rights of Women's criminal law advice line

For free, confidential, legal advice on criminal law matters call **020 7251 8887**

For a full list of Rights of Women's legal guides and information about our advice lines go to

www.rightsofwomen.org.uk

Useful contacts

24 hour domestic violence helpline

0808 200 0247

www.nationaldomesticviolencehelpline.org.uk

Rape Crisis

0808 802 9999

www.rapecrisis.org.uk

Witness Service

0300 332 1000

www.citizensadvice.org.uk/law-and-courts/legal-system/going-to-court-as-a-witness1/

Victim Support

0808 1689 111

www.victimsupport.org.uk

The Code of Practice for Victims of Crime England and Wales

www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime

HM Prison and Probation Service Victims

0300 060 6699

www.gov.uk/get-support-as-a-victim-of-crime

Criminal Injuries Compensation Authority

0300 003 3601

www.cica-criminal-injury-uk.com

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