



Witnesses and the Crown Court



Durham Crown Court

Information about the Author

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Susan spent 3 years working with County Durham Youth Offending Service and was co-author on the popular ClearCut Communication resources.

She is passionate about ensuring that people with communication needs get fair access to justice and that their voice is heard.

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Introduction

The process of giving evidence to court can be unfamiliar for most people. Not knowing what to expect may create anxiety about what will happen. This resource pack has been created to:

- Provide general background information about court.
- Show a witness the court they will give their evidence to.



It is not intended that all of the pack would be shared with every witness.

Instead it is recommended that the relevant pages be shared only at the appropriate time for a particular witness. It will be the professional working with the witness who selects the specific pages a witness needs (e.g. fitness to plea pages would only be shared if and as it applied to the defendant, e.g. special measures pages may be presented in isolation to gain the vulnerable witness' views about giving their evidence).

This resource uses local court photos to show the witness' journey of going to court.

Criminal Practice Directions April 2019 states:

'Photographs of court facilities 3F.29 Resident Judges in the Crown Court or the Chief Clerk or other responsible person in the magistrates' courts should, in consultation with HMCTS managers responsible for court security matters, develop a policy to govern under what circumstances photographs or other visual recordings may be made of court facilities, such as a live link room, to assist vulnerable or child witnesses to familiarise themselves with the setting, so as to be enabled to give their best evidence. For example, a photograph may provide a helpful reminder to a witness whose court visit has taken place sometime earlier. Resident Judges should tend to permit photographs to be taken for this purpose by intermediaries or supporters, subject to whatever restrictions the Resident Judge or responsible person considers to be appropriate, having regard to the security requirements of the court.'

Professionals can discuss creation of a version of this pdf to include local court photos by contacting Susan Stewart (susanestewart@sky.com).

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What is a Crown Court?

A Crown Court takes place in a building.

A Crown Court hears information about some crimes. The court needs to find out what happened.

A crime is something that is wrong and against the law.

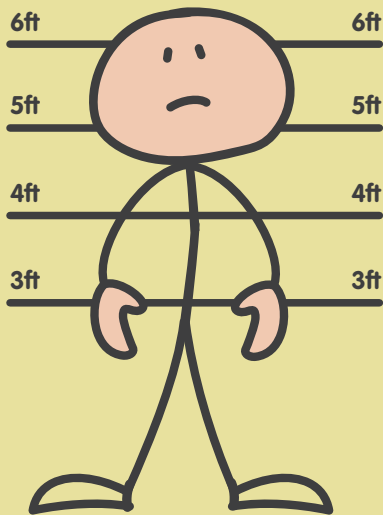
A judge is in charge of a Crown Court.

This is inside one court room. Your court room may look different.



Who Goes to Crown Court?

The Defendant



A defendant is someone who **may** have done something wrong and against the law.

A **trial** happens when the defendant says they **did not** do the crime. The defendant says they are '**not guilty**'.

The trial is a way for the court to:

- Find out information about what happened.
- Say if the defendant did do something against the law.

Witness



A witness saw, heard or knows something about what happened. The witness' job is to tell the truth about what happened.

You are a witness. At a court trial you will be asked questions about what you saw, heard or know.

You may be asked about other things too.

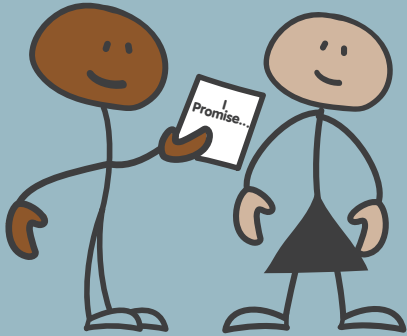
Some witnesses are also called **'the complainant'** or **'a victim'**.

The complainant says someone (the defendant) did something wrong and against the law to them.

Prosecution witnesses answer questions to show the defendant did the crime.

Defence witnesses answer questions to show the defendant did not do the crime.

A Witness Supporter



All courts have witness supporters (the 'Witness Service').

A witness supporter may also be a family member, a trusted friend, teacher, an Independent Sexual Violence Adviser (ISVA) or an Independent Domestic Violence Adviser (IDVA).

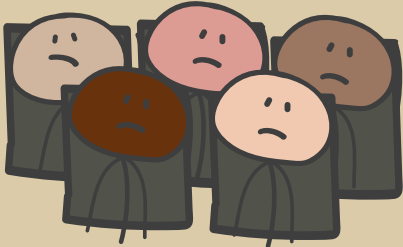
They **cannot be another witness for the trial.**

Your witness supporter can help to keep you calm.

Your witness supporter can be with you in the court waiting room.

You can ask the court if your chosen supporter can be with you when you answer questions at the trial. It is up to the court to say yes or no to this.

Public (anyone)



Anybody can go into a courtroom to watch what happens.

The family or friends of the defendant or witnesses, may sit here for some trials.

They sit in the **'public gallery'**.

Witnesses are only allowed in the public gallery when they have answered all the court's questions about what they know.

There are some trials when (e.g. about terrorism) people can't sit in the public gallery.

Who Works at a Crown Court?

Judge



The judge says what should happen in court. They know the rules of law.

The judge makes sure what happens at court is fair.

The judge usually wears a wig and a coloured gown in the courtroom.

Clerk



The clerk looks after all the legal reports and information needed for the trial.

Court Usher

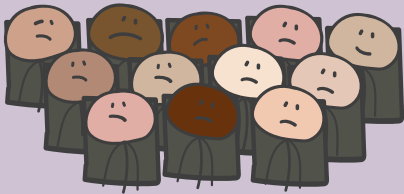


When it is time to answer the questions, an usher shows you where to go.

They usually wear a black gown.

Sometimes a witness uses the special court TV to answer questions. When this happens, an usher often sits in the room with the witness too.

Jury



The jury is a group of 12 ordinary people.

Each court case has a different group of 12 people.

At the start of the trial the jury does not know about what happened.

The judge asks these people to listen and look at the information about what happened.

The jury listens carefully to what witnesses (you) say.

The jury think very carefully about what they hear and see in court (called '**the evidence**').

They must think about if what they heard and saw, proves the defendant did the crime or not.

Prosecution



The prosecution's job is to:

- **Share all the information about what happened** (this is called 'presenting the case').
- **Help the court think carefully about what happened.**

Some lawyers are barristers. They usually wear a wig and black gown in the courtroom.

The prosecution lawyer helps prosecution witnesses share what they know with the court.

The prosecution asks defence witnesses questions. The questions try to test if a defence witness is telling the truth.

It is part of their job to show when a defence witness:

- Is not telling the truth.
- Made a mistake.
- Can't be believed.

Defence



It is the defence lawyer's job to **tell the court what the defendant says happened.**

The defendant may answer questions from their own lawyer (the defence barrister) and then the prosecution lawyer.

The defence lawyer will also **ask prosecution witnesses questions.** The questions try to test if a prosecution witness is telling the truth.

It is part of the defence lawyer's job to show if a prosecution witness:

- Is not telling the truth.
- Made a mistake.
- Can't be believed.

Intermediary



Everyone who speaks to the witness should ask easy to understand questions. Sometimes it can be hard to understand police or lawyers' questions.

Intermediaries help people communicate. They are not on anyone's side.

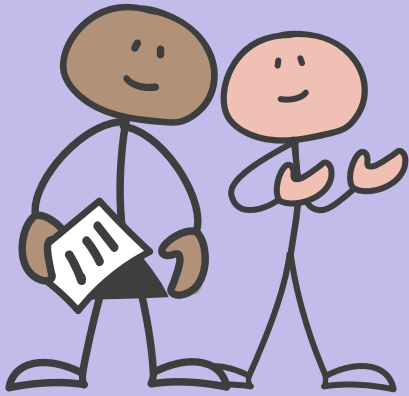
A **registered intermediary** helps **some** witnesses communicate with the police and court. This helps the witness give their evidence as clearly as possible.

Registered intermediaries help:

- A witness understand what the police and court people say.
- The police, lawyers and judges understand the witness' answers.

There are rules about which witnesses can get help from a registered intermediary.

Witness Service



The witness service works at every court. You may meet them on a visit to the court before the trial (also called a **'pre-court visit'** or a **'pre-trial visit'**). This helps you know what to expect for when you answer the court's questions.

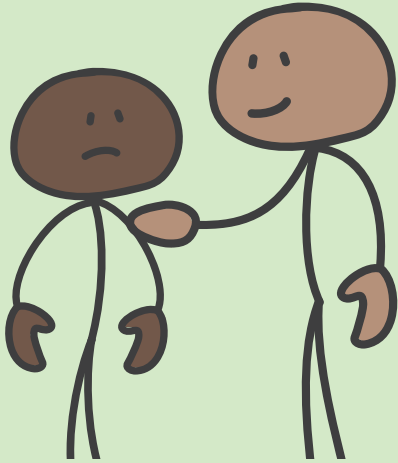
They give all witnesses information and independent support about:

- How a court works (e.g. who works in a courtroom, what they do).
- The witness' job in giving evidence.
- How long you may have to wait on the day.
- Finding answers to any questions you may have about court. (Sometimes you may have questions about what will happen to the defendant. This is called the verdict and sentence).
- Getting help for after the trial.

They will offer you a hot or cold drink.

The Witness Service have a waiting room for you. Tell them if you have any worries about going to court. The defendant and their supporters are not allowed in your waiting room.

Youth Offending Service



The Youth Offending Service work with young defendants who are between 10 and 18 years old.

The youth offending service may talk to the young defendant and tell the court about the defendant's life (using a '**pre-sentence report**').

Probation



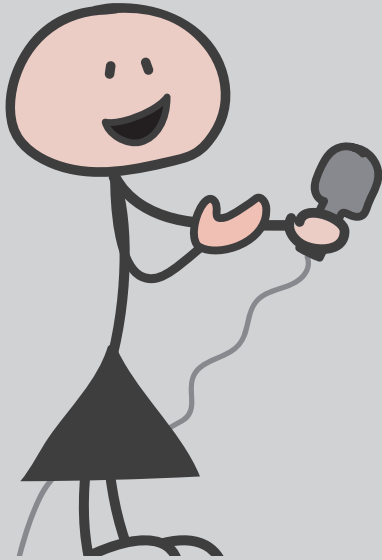
Probation may share information about an adult defendant's life with the court (called a '**pre-sentence report**').

If the court says the defendant did something against the law, probation may also work with an adult defendant.

The work tries to:

- Keep people safe.
- Stop the defendant getting into trouble with the police again.

Journalists



Sometimes there **may** be journalists in the courtroom.

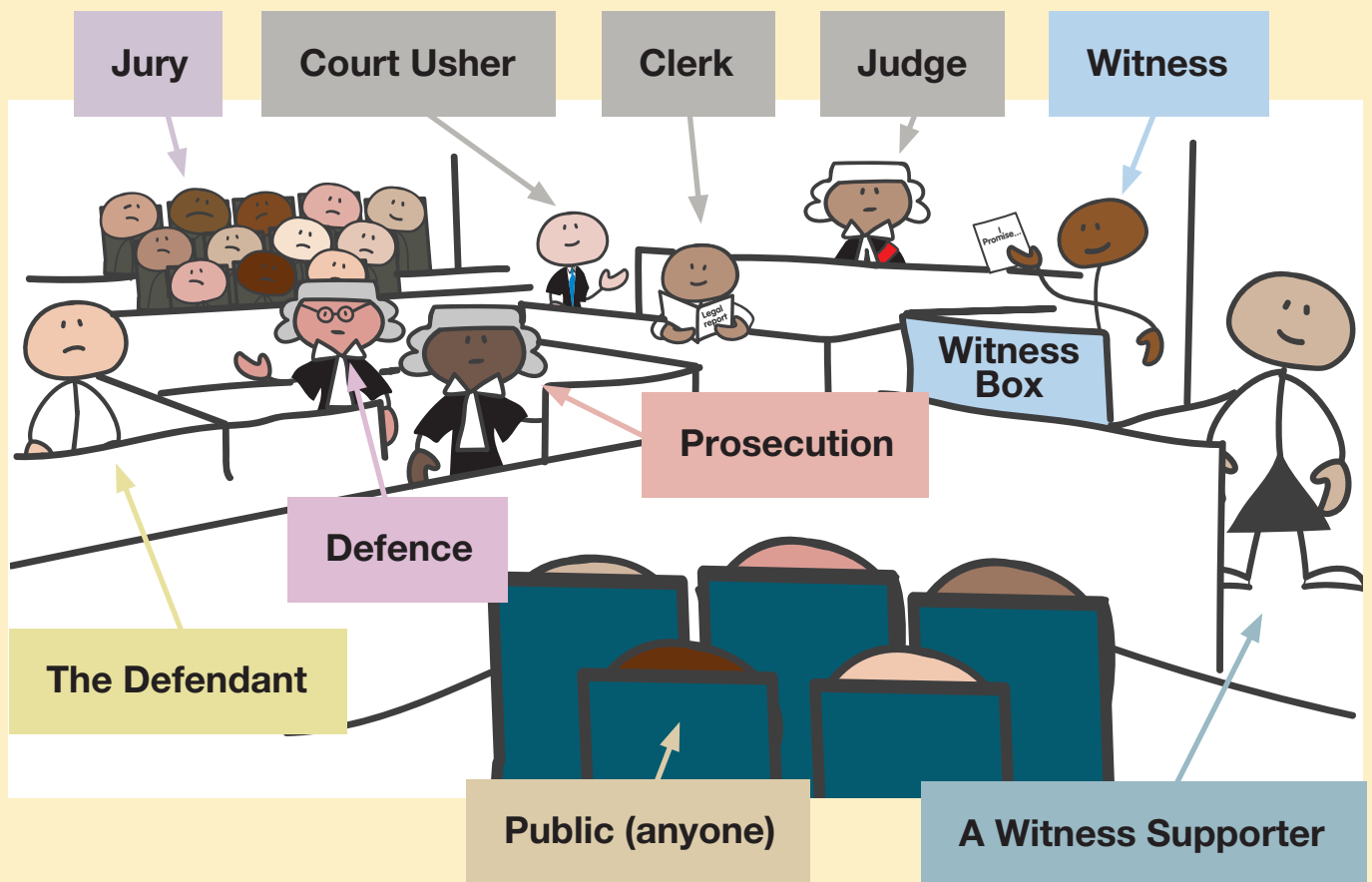
They can sit in a special place in the courtroom. This is called the press gallery.

Journalists listen to what happens in the courtroom.

They **may** put general information about what happened in a newspaper, online, or on the TV or radio.

Sometimes the court may say journalists cannot share some personal information about a witness (a '**reporting direction**').

The Courtroom



Some witnesses answer questions:

- From inside the court room. The place they stand or sit in the court room is called the **'witness box'**.
- From another room in the court building. They use a special court camera and TV. This is called using the **'live link'**.
- By special court camera from another safe building. They use a special court camera and TV. This is called the **'remote live link'**.

Pre-Court or Pre-Trial Visit

It is helpful to ask the police or the Witness Care Unit for a visit to see the courtroom.

The Witness Service can help you on your pre-court visit.

When the judge has said you can use the live link, it also helps to practise using the live link on your visit.

This lets you think about the best way for you to answer the court questions.

It is the judge who says if you can use the live link, the remote live link or be in the courtroom to answer the court's questions.

The Witness Care Unit can:

- Answer any questions you have about what will happen at court.
- Talk with you about what help you may need for court.
- Give you information about when court events for the trial will happen.
- Let you know what the judge says will happen to the defendant when the trial is finished.

Tell the police if you have any worries about going to court (e.g. being seen by the person who hurt or upset you, having people watch the trial from the public gallery).

You and the defendant are not allowed to talk about, email, write or text each other about what happened.

Special Measures

‘Special Measures’ are things the court can do to help some witnesses.

A judge may let:

- Witnesses under 18 years old.
- Those with communication needs.
- Witnesses with mental health needs.
- Those with a disability.

use a range of ‘special measures’.

Special measures can include:

a) Showing the court, the recording of your interview with the police (called ‘Video-ed evidence in chief or an ABE interview).



Sometimes the police recorded you talking and answering questions about what happened.

This is one room used for police witness interviews. Your room may look different.



The police interview recording of what you said is kept safe for the court.

At the trial this police interview recording is played to the jury.

The defendant and anyone in the courtroom will see and hear this police interview recording in the courtroom too.

When you do a video recorded police interview you will be asked questions by:

- 1. Defence** (to test what you say happened)
- 2. Maybe** by the prosecution (to re-check what you know about what happened).

When the police write down your information in a '**written statement**' you will be asked questions at court by:

- 1. Prosecution** (to say all that you know in detail about what happened)
- 2. Defence** (to test what you say happened)
- 3. Maybe** by the prosecution (to re-check what you know).

This means when you made a police written statement (and not a recorded police interview), you may be asked more questions at court.

b) Screens:



With a screen

When you answer questions, the judge may let you have a screen near you.

Screens are often allowed when the defendant may have done something violent or sexual.



No screen



The use of a screen means:

- You will be in the courtroom.
- The defendant cannot see you in the courtroom.
- You cannot see the defendant in the courtroom.
- You cannot see all the courtroom.
- You cannot see the public gallery.
- You will see the judge, the clerk, the lawyers and the jury.

c) Stopping some people from being in court:



Sometimes a witness is really, really worried or scared about answering questions about 'a sexual offence' (what happened involved private body parts).

The judge **may** stop people sitting in the public gallery of the courtroom. This means no-one else will see you or hear what is said.

It **may** mean your family and friends do not get to hear what happened in the courtroom.

This special measure does not happen very much in trials.

d) No wigs or gowns



Sometimes the judge says the judge and lawyers will not wear their wigs and gowns.

e) Using the 'Live link' (Court TV screen and camera) to answer questions:



You will not be in the courtroom to answer the questions. The judge may let you be in another room in the court building.

This safe room may be in the court building or in another safe building.

You will use the court TV screen and camera to answer questions.

A court usher will also sit in the room with you or someone to work the live link.

Answering questions using the live link means:

- You should not see the defendant.
- You will see and hear the judge and lawyers.
- You may see others working in the courtroom as well.
- Everyone in the courtroom will see and hear you on the court TV screen.

Sometimes the judge lets you have a screen around the courtroom TV so the defendant does not see you on the court TV (called '**combined special measures**').

The defendant must be able to hear what you say.

f) Showing a recording of a witness answering a lawyer's questions (called 'Pre-recorded Cross Examination') also called 'Section 28'.



You cannot use this when you gave a written statement.

You can only do this when you gave a recorded police interview.

You will be in the live link room not the courtroom.



The lawyer asks their questions a long time before the trial starts. This could be lots of weeks before the trial. You are recorded answering the lawyer's questions.

There are rules about who can use this special measure. A court can only record a witness being questioned if the witness is a child or has particular needs.

The court will watch:

- The recorded police interview.
- The recording of the lawyer asking their questions.

This happens before the trial starts.

The defendant sees the lawyer asking the questions on the courtroom TV. The defendant hears and sees the court recording. They may be in the courtroom or somewhere else when they hear and see your information.

This court recording is kept safe. It can be played in the courtroom when the trial starts in the future. You do not then have to be at the trial.

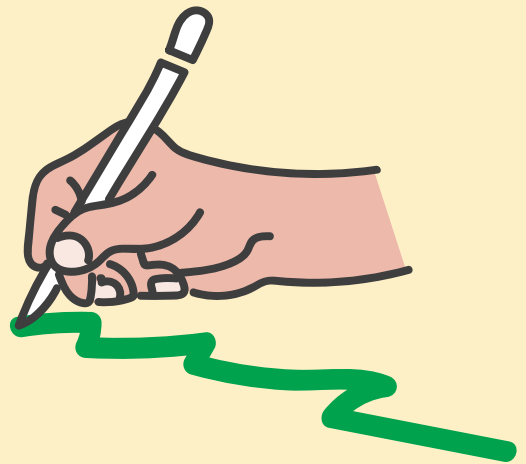
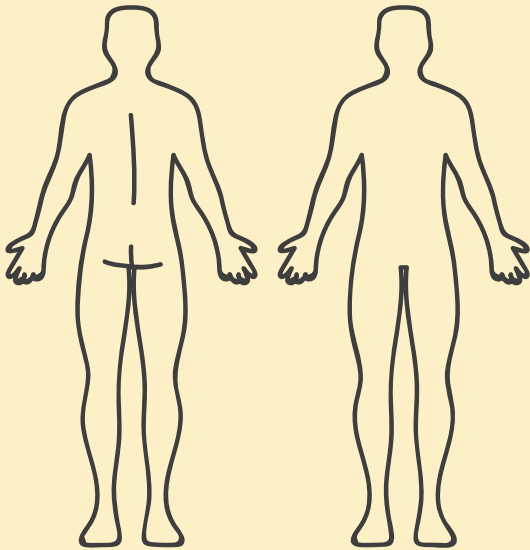
You still find out what will happen to the defendant at the end of the trial.

g) Intermediaries:



Registered intermediaries help witnesses and the court communicate with each other.

h) Devices/communication aids:



The judge may let you answer questions using:

- Writing.
- Typing.
- Drawing.
- Pictures.
- Symbols.

Going to Court to Answer Questions

Sometimes a witness has to go into the courtroom to answer questions about what happened.



This is the entrance most people use to go inside the court building.

You may go in a different entrance.

Only safe things are allowed in court (e.g. weapons, toy guns, glass bottles are not allowed).

The security guard will ask people to walk through the security scanner.



Sometimes the security guard will move the small security scanner near your legs and arms.



This is the **general** waiting area inside the court building.



This is a waiting room you may use at court. Yours may look different.



The usher will tell you when it is time for you to share what you know with the court.

The usher will take you into the court room.

This is the inside of one courtroom.
Your courtroom may look a bit different.



When you answer questions from inside the courtroom you will be in the 'witness box'.

This is what you will see from the witness box in this courtroom.

Your courtroom may look different.

What you say is recorded by what looks like a microphone.



This is what the defendant sees of this courtroom.



This is what the defendant sees of this courtroom when you are behind a screen.

Using the Live Link to Answer Questions

Judges sometimes let some witnesses use the special TV and court camera to answer questions.



This is the live link room in the court building. Sometimes the judge lets witnesses use the live link from another building (using the 'remote live link').

You will sit on one of these chairs in the live link room.

When the court has said you can have one; the registered intermediary will sit next to you.

There will also be a court person in the room who knows how to work the court camera.

You will usually see and speak to the **judge**, **prosecution lawyer** and **defence lawyer** on the questions room TV.

You may see the court clerk typing what is said too.

The judge, prosecution lawyer, defence lawyer, jury and court clerk will see you on their courtroom TVs.

The defendant will hear you on the courtroom TV.

Usually the defendant will also see you on the court TV's.



The judge will tell you when you are finished. You can then go back home. You will not be able to talk to any other witnesses until they have answered their court questions.

Waiting at Court or the Remote Live Link Building

Some waiting rooms have some games, toys, books, DVDs or gaming systems (e.g. xBox).

You may be able to have a drink in the waiting room.

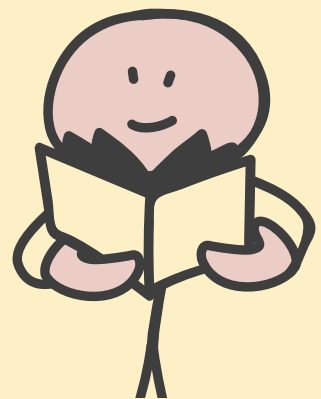


It's a good idea to bring your own snacks with you on the day you answer questions.

Sometimes it seems a very, very long time that you have to wait until the court is ready for you. Your family will usually wait in the waiting room when you go into the live link room.

Your family may also go into the courtroom to watch you answering the court's questions.

Some people bring things with them so they do not get too bored waiting.



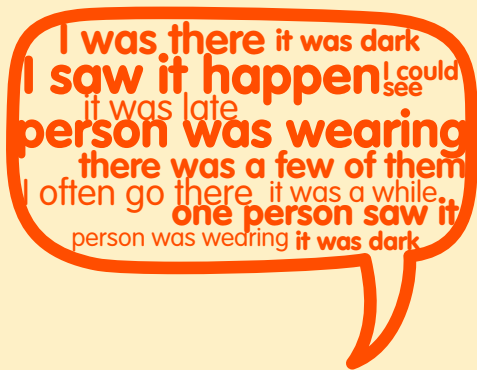
You may all bring a phone, music, a game, things to colour, a book or something else you like.

Think about what you could bring with you to do when you are in the waiting room.

Answering the Court Questions

Witnesses under 14 years old will 1st be asked to tell the truth. Witnesses 14 years or older have to 1st read or repeat a promise to tell the truth. This is called **'taking the oath'**.

Listen carefully to what you are asked in court and remember:



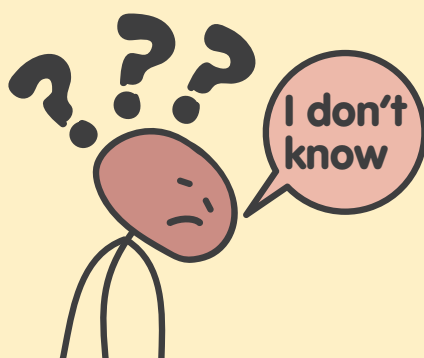
The people in court do not know what you know.

Try to answer with as much information as you can.



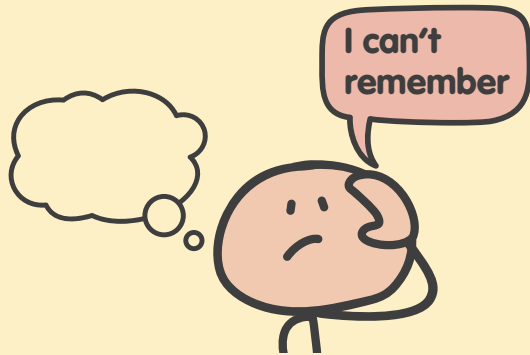
No guessing!!!

Tell the truth.

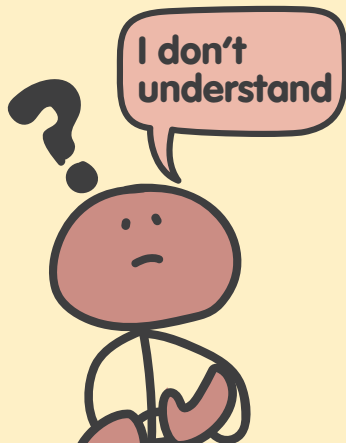


It's ok when you don't know, just say

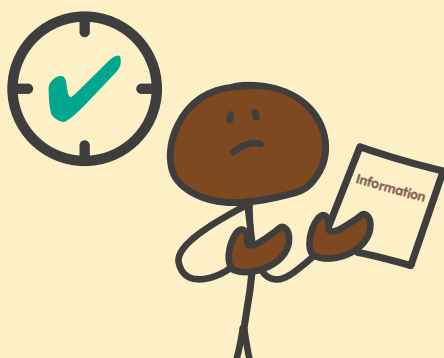
'I don't know'



It's ok when you don't remember, just say
'I can't remember'



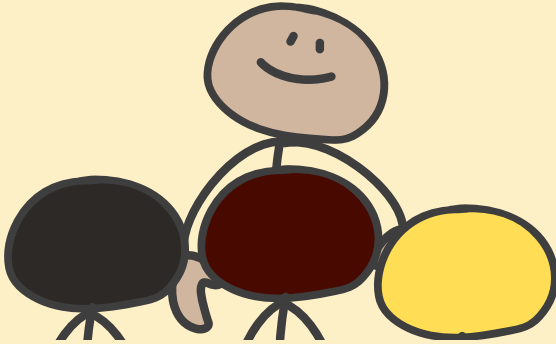
It's ok when you do not understand, just say
'I don't understand'



It's ok to:

Pause and then say your answer. You can take your time to think.

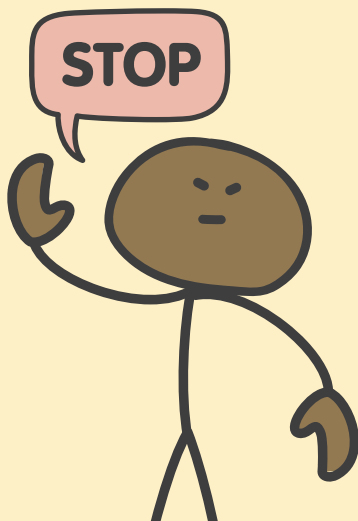
You can also ask for time to look at any information you are shown.



When you are in the courtroom:

Try to look towards the jury when you give your answer.

The lawyer asks the questions; it's the jury and judge who need to hear your answers.



Sometimes you may think none of what the lawyer says is right.

You must say when the lawyer gets something wrong and say:

'NO that's wrong'

Sometimes you may think only some of what the lawyer says is right.

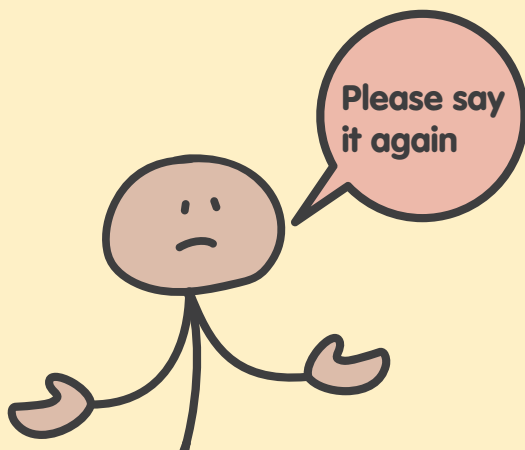
Tell them what bits are right.

Tell them what bits are wrong.

It may be that you will need to ask some questions too.

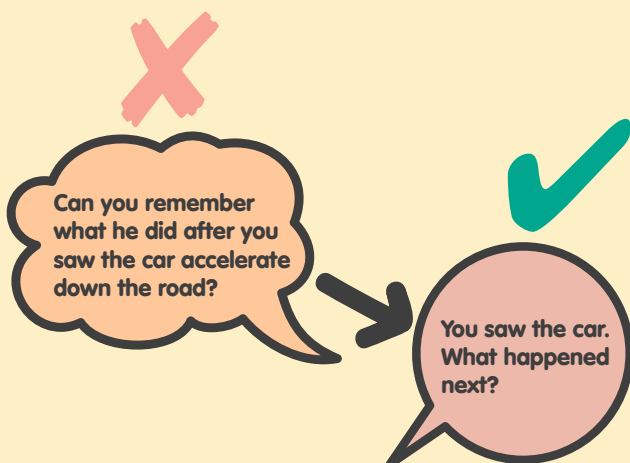


It is ok to ask for a **break**.

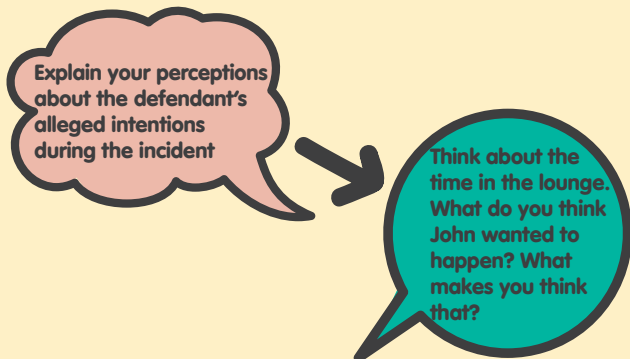


It is okay to ask for a **question to be asked again**.

When a question is asked again, it is okay to say you still do not understand. When this happens **say you still do not understand the question**.



It is okay to ask for a **question to be made shorter** or ask for it saying a **bit at a time**.



It is okay to ask for a **question to use easier words**.



Sometimes you may get interrupted. It is okay to ask for **more time to think**.

Take as long as you need to answer questions.

Sometimes you may be asked things that are difficult to talk about. It is really important that you tell the court what you know. You can also say when you are finding it hard to say what you know.

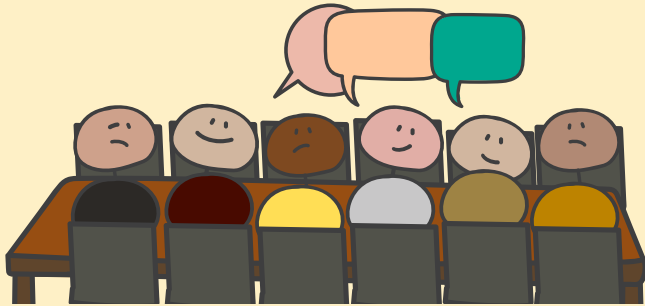
Sometimes you may need to say swear words you heard or read. It is important that you tell the truth and say what you heard or read. You will not get into trouble for saying swear words or rude things you saw, heard or read.

Sometimes the person asking you questions may need some thinking time. It is okay for there to be silence for people to think. You can just wait until you are asked the next question.

Sometimes you may be asked the same question in a different way. You know what happened. You must tell the truth.

Sometimes you may be asked about written information, photos or video. You can ask to see this information. You can ask to be shown which bit of the information the lawyer asks about.

What Might Happen to the Defendant

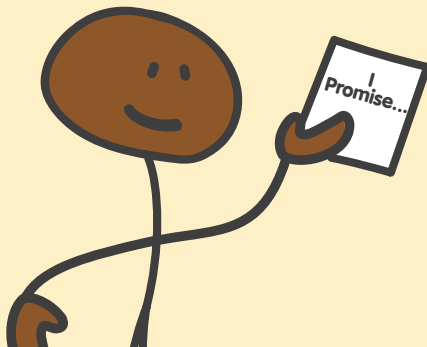


When all the information has been shown in court, the jury must talk together about what they think happened.

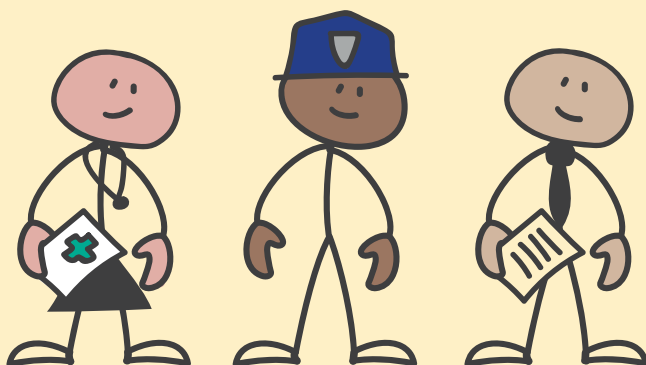
This talk is done in private in the jury room.

The jury may be a few hours or a really long time (e.g. days) in the jury room.

Each person on the jury must think about what each bit of information shows. This information may be from the:

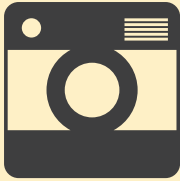


a) Prosecution witnesses or defence witnesses (people who saw, heard or know something about what happened).



b) 'Expert witnesses' (people with special jobs who can give advice/thoughts about what happened). They may be doctors, weapon experts, fire officers or other experts.

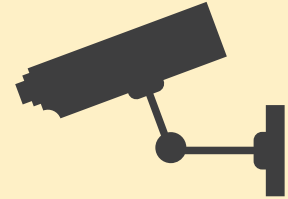
c) Evidence like:



photos



video



CCTV



texts



emails



letters



social media, YouTube or other things



clothing



maps

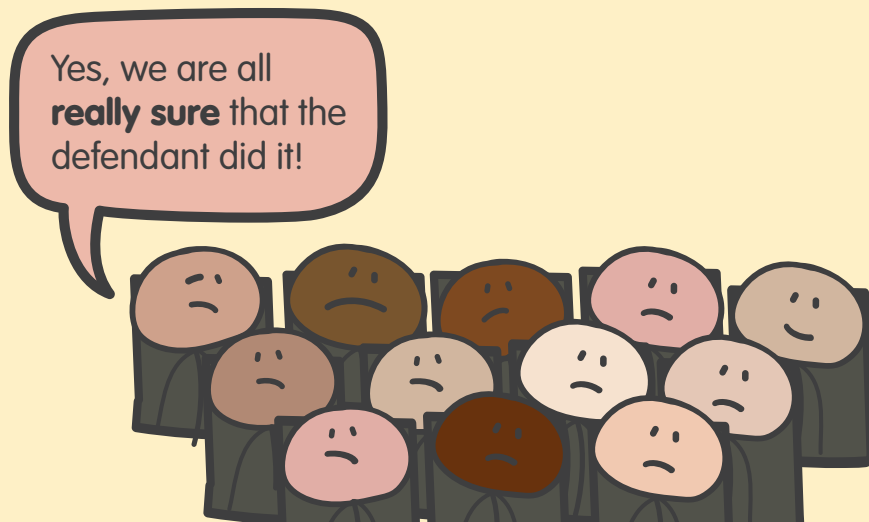
Each jury person (a 'juror') must work out if all the information really shows the person did do the crime or not. In order to find a defendant guilty of a charge, the jury would have to be sure the defendant did the crime. They must be really sure about what things happened.

They then come back into the courtroom. One of the jury will then say the jury's '**verdict**'. The verdict choices are '**guilty**' or '**not guilty**'.

'Guilty'

All of the jury are sure all the information strongly shows the defendant did something wrong and against the law.

(Sometimes the judge may say a guilty verdict can be given when 10 or more of the jury think the defendant did do the crime. This is called a '**majority verdict**').

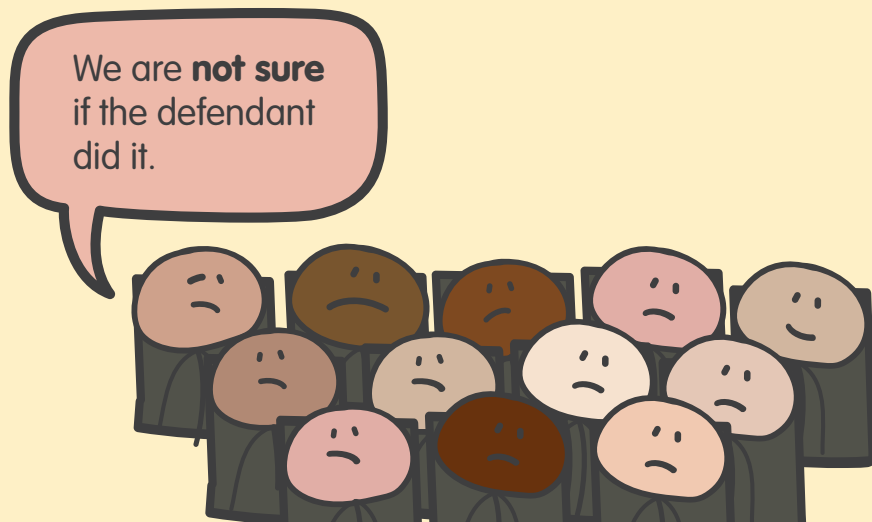


'Not Guilty'

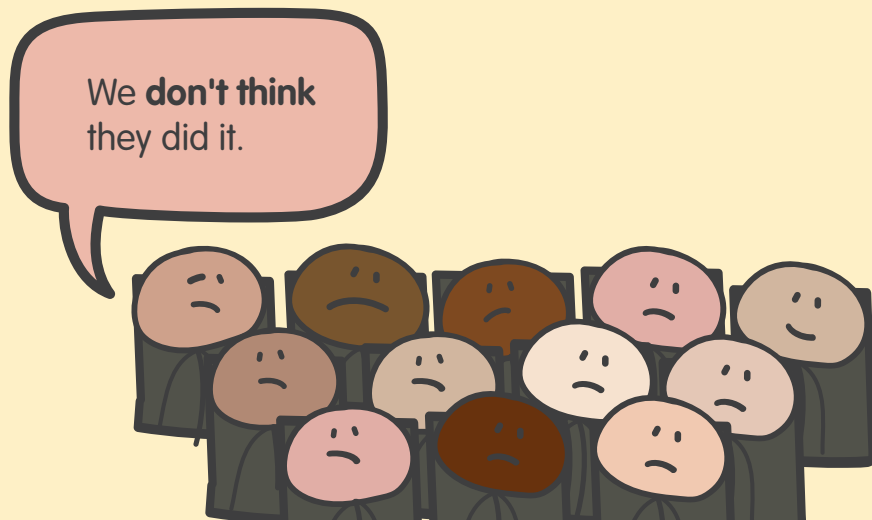
Some of the **jury are not really sure about what happened**. There may be some gaps in the information.

Most of the jury think all the information is not strong enough to show the defendant did do the crime.

The defendant is then 'acquitted' (they are free to leave the court).



or

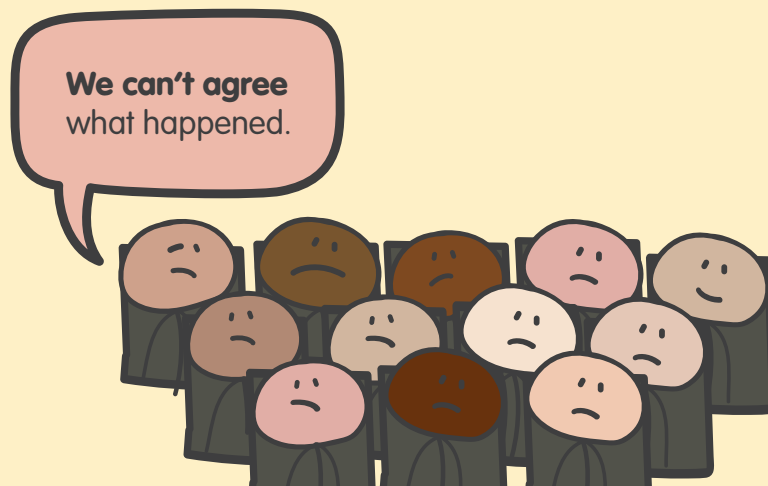


A **'hung jury'** is when the jury cannot agree what happened.

Some of the jury think the defendant did it.

Some of the jury think the defendant did not do it.

The people in the jury think different things.



Sometimes having a 'hung jury' means another trial may have to happen.

Sometimes the trial may be a **'Newton hearing'**. This is when the defendant says:

- They did do some bits that were wrong and against the law. They agree they are 'guilty' for some part(s) only.
- They did not do some of the other things that someone said they did.

In a Newton hearing there is no jury. A judge has to decide what happened. The judge will then sentence the defendant (say what will happen to them).

Sentencing

When the defendant says they did the crime or the jury says a defendant is guilty, the judge thinks about '**passing sentence**'.

Victims may also give a 'victim personal statement' to the court. This says what has changed in their life because of what happened. The judge uses this information when thinking about sentencing. This may be on the same or a different day to the verdict. Victims have the right to go to the court and hear the judge '**pass sentence**'.

Sometimes the judge may '**adjourn** for a '**pre-sentence report**' to be written about the defendant. This means that they wait for more information about the defendant. They only say what will happen to the defendant when they have had this information.

There are very strict rules about what the judge can say will happen to a guilty defendant.

These rules use information about:

- The sort of crime.
- If it was 1 crime or more than 1 crime.
- How much the crime changed the victim's life.
- How sorry the defendant seems to be about what happened.
- The defendant's health.
- The defendant's past crimes and life.

The judge may say a guilty defendant gets:

- An '**absolute discharge**'. This means nothing else happens to them.
- A '**conditional discharge**'. The defendant must not get into trouble with the police again for a set time. They may never get into trouble with the police again. When they do get into trouble with the police again the court will hear about their new and old crime.
- A '**suspended sentence**'. This means they do not go to prison at 1st. They have a chance to show they can stay out of trouble. The defendant must do all the work and get the help the court said. The information about what they did against the law is kept safe. If they do something else against the law in the future, they may then go straight to prison.
- A '**community sentence**'. The defendant's court order says they have to do unpaid work to help people. They may also have to get help for their difficulties.
- A '**ban**'. This means the defendant is stopped from doing something. A 'restraining order' may stop them coming near you. Sometimes a ban may stop them driving or keeping animals.
- A '**prison sentence**' (also called a 'custodial sentence'). There are complicated rules about how long the defendant can be kept in prison.
- A '**fine**'. Paying money because of what happened.

A guilty defendant may also be ordered to pay some of the court costs and or an amount to the person they hurt or upset.

There are also other sentences a judge can give.

Fitness to Plead

In some rare cases, the judge may say the defendant is not **'fit to plead'**. They cannot then have the usual trial.

When the Judge thinks the defendant is not 'fit to plead' it may be because:

1. Medical doctors have said the defendant has a medical condition.

This may make it hard for them to do some of the following:

- Understand what people say.
- Share what they think.
- Make the right decisions.
- Understand what is real or made up.
- Understand real life situations easily or accurately.
- Live on their own safely.
- Know what they are doing as they do it.
- Understand what may happen if they do something against the law.
- Fully understand and take part in a court trial.

2. Specialist medical doctors think the defendant is not well enough to have a trial.

This means their disability would stop them:

- Saying if they did or not do the crime.
- Telling their lawyer their thoughts about the information in the trial.
- Understanding what happens in the courtroom.
- Understanding the information shared in a trial.
- Saying when someone on the jury is known to them.

When a defendant is found 'not fit to plead' the court will have a 'trial by fact' (also called a 'section 4a hearing').

Witnesses may still need to answer questions about what they heard, saw or know with the court.

When the defendant is 'not fit to plead' they are not allowed to see, write, text, email, speak, phone or have anything more to do with witnesses.

The defendant is also not allowed to ask anyone else to tell, email, text, or phone witnesses with a message from them.

The defendant may be on '**bail**' when they are found 'not fit to plead'. This means they may be at home **for a short time only**. There are **rules** about what they can and cannot do. The police check that they do what the rules say.



The defendant has to go back to court.

The judge will then say what will happen to the defendant.



The judge needs 2 specialist doctors to find out information about the defendant. The specialist doctors have to write a long detailed report. The doctors' information is added to a **'Pre-Sentence Report'**.

This report is likely to have information in about the defendant's 'mental health'. It may have details in the report about how their brain works differently to most other people. The report may also write about:

- How well they are (body and mind).
- What may help keep you and other people safe.
- What medical help the defendant needs.
- What may make sure the defendant does not do something wrong and against the law again.

What could the judge say will happen to a defendant who is 'not fit to plead'?

The judge has 3 choices for what will happen to a defendant who is 'unfit to plead':

1. An 'Absolute Discharge'.

This means the defendant does not have a criminal record.

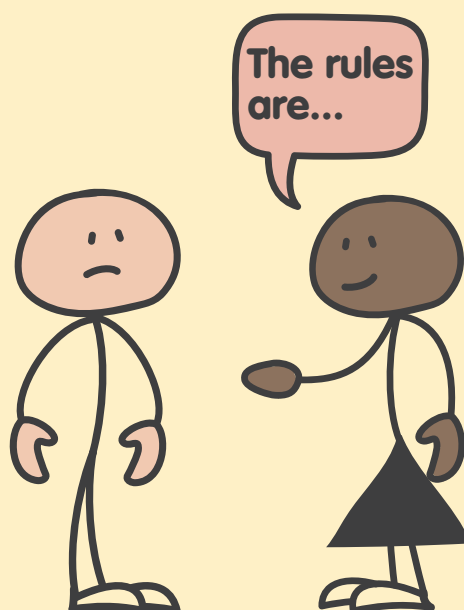
No further action would be taken against them because of what happened.

2. A 'Supervision Order'.

There would be strict rules about what the defendant could and could not do, where they had to live and what medical help they had to get.

They would have to do work with professionals to:

- Understand what they did was wrong and against the law.
- Understand how it changed your life and other people's lives.
- Show they have learnt from what they did wrong.
- Make sure they do not do something wrong and against the law again.

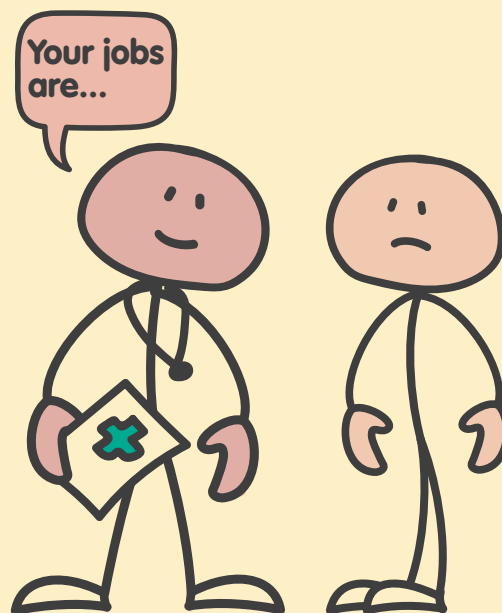


3. A Hospital Order.

The defendant would be kept safe in a hospital.

They would do work in the hospital to:

- Understand what they did was wrong and against the law.
- Understand how it changed your life and other people's lives.
- Show they have learnt from what they did wrong.
- Make sure they do not do something wrong and against the law again.



Thank you to:

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The ClearCut Communication catalogue detailing their resources is available [here](#).

The Police, Crime and Victims' Commissioner would like to thank Susan and all those who have contributed to the development of these resources.

