

# In the Youth Courtroom



**What to expect if your son/daughter with a learning disability has to go to court**

Serena Brady & Glynis Murphy

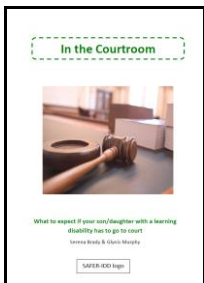
# SAFER-IDD info

## Other booklets in the series:



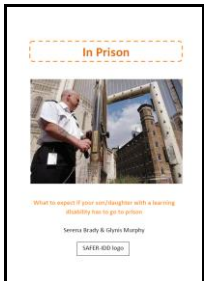
### ***"At the Police Station"***

Information on what happens during a police arrest and at the police station.



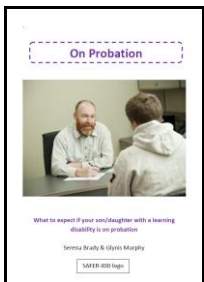
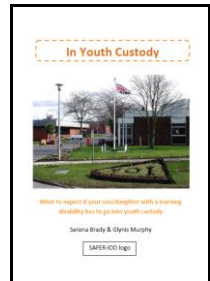
### ***"In the Courtroom"***

Information on what happens during court and the possible outcomes.



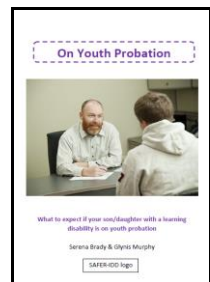
### ***"In prison" & "In Youth Custody"***

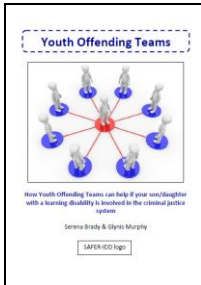
Information on what happens in prison / youth custody.



### ***"On Probation" & "On Youth Probation"***

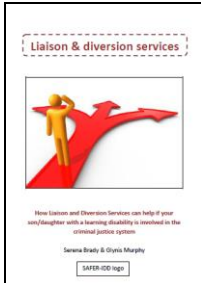
Information on what happens during probation / youth probation.





## **“Youth Offending Teams”**

Information on what Youth Offending Teams are and what they do.



## **“Liaison & Diversion Services”**

Information on what Liaison & Diversion Services are and what they do

## **Acknowledgements**

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## How to use this booklet

This booklet is for anyone who has a son/daughter with a **learning / developmental disability** aged between 10 and 18 who has been **charged** with a **crime** and has to go to **court**. People under the age of 10 are below the age of **criminal responsibility** and cannot be charged with a crime. There is more information on this in the Police booklet.

This booklet will give you information about what happens at court and what the outcome could be. It also gives you information about your son/daughter's **rights**, how they can get help in court, and how you can help them. There is a separate booklet about **Adult Court** if your son/daughter is over 18.

This booklet does not give you information on what happens during a **police arrest**, and does not give detailed information on **prison / youth custody** or **probation**. Other booklets in the series provide more information on these aspects of the **criminal justice system** (see page 1). There are also booklets on **Liaison & Diversion Services** and **Youth Offending Teams**.

## How to use this booklet

You can use the sections in this booklet when you need to, it might be helpful to read specific sections when they are most relevant.

There is a list of useful terms and an index at the back which will help you to find information. Any words that are **red** are explained in the 'useful terms' and are also in the index.

There is also a list of useful websites at the back of the booklet.

## People who might be involved

### Barrister

**Barristers** are lawyers who are instructed by solicitors to represent defendants in court. They may also work for the **Crown Prosecution Service** and act as the prosecution in court. In Crown Courts, barristers wear wigs and black gowns.

### District Judge

A District Judge sits in a Magistrate's / Youth Court instead of Magistrates. Unlike Magistrates, they are trained in the law and are employed by the court.

### Doctor / Psychiatrist

Your son/daughter might see a doctor/psychiatrist if the court are considering admitting them to hospital for assessment or treatment under the Mental Health Act (see page 50).

### Intermediary

An intermediary is someone who can help a defendant with a learning / developmental disability or mental health condition to give evidence in court. See page 59.

### Judge

A Judge (Crown Court) is in charge of what happens in the court. They ensure that everything in a trial is done according to the law and will tell the Jury to acquit the defendant if they cannot be convicted by law. Judge's wear wigs and a gown in Crown Court.



## **Jury**

In a Crown Court there will be a Jury which is made up of 12 members of the public. The Jury's job is to listen to a trial and decide, based on the evidence, whether the defendant is innocent or guilty. A defendant can challenge a Jury member if they think they might be biased or if they know them outside of court.

## **Legal advisor / Court clerk**

A Legal Advisor will be present in a Magistrate's / Youth Court to give advice about the law to the Magistrates. They also record everything that happens in court. A Court Clerk will record everything that happens in a Crown Court.

## **Liaison & diversion staff**

Liaison and diversion services are there to help people who are involved with the criminal justice system and who might have a learning or developmental disability or mental health condition. Staff from the service might be involved with your son/daughter to do assessments. More information on liaison and diversion services is given on page 60.

## **Magistrates**

Magistrates sit in a Magistrate's / Youth Court and hear trials for minor crimes. They sit in groups of three but usually only one will talk during the trial. Magistrates are members of the public who volunteer and are unpaid. They have only limited training so are supported by a Legal Advisor.

**Probation  
officer /  
Offender  
manager**

A Probation Officer / Offender Manager is responsible for supervising offenders who have been released from prison, are serving community sentences, or are under a supervision order. They also prepare pre-sentence reports for the court.

**Solicitor**

A solicitor is a lawyer who can give advice to people who have to go to court. They also instruct barristers to represent the defendant in court.

**Usher**

An usher is a member of court staff who helps to manage the court hearings.

**Witness**

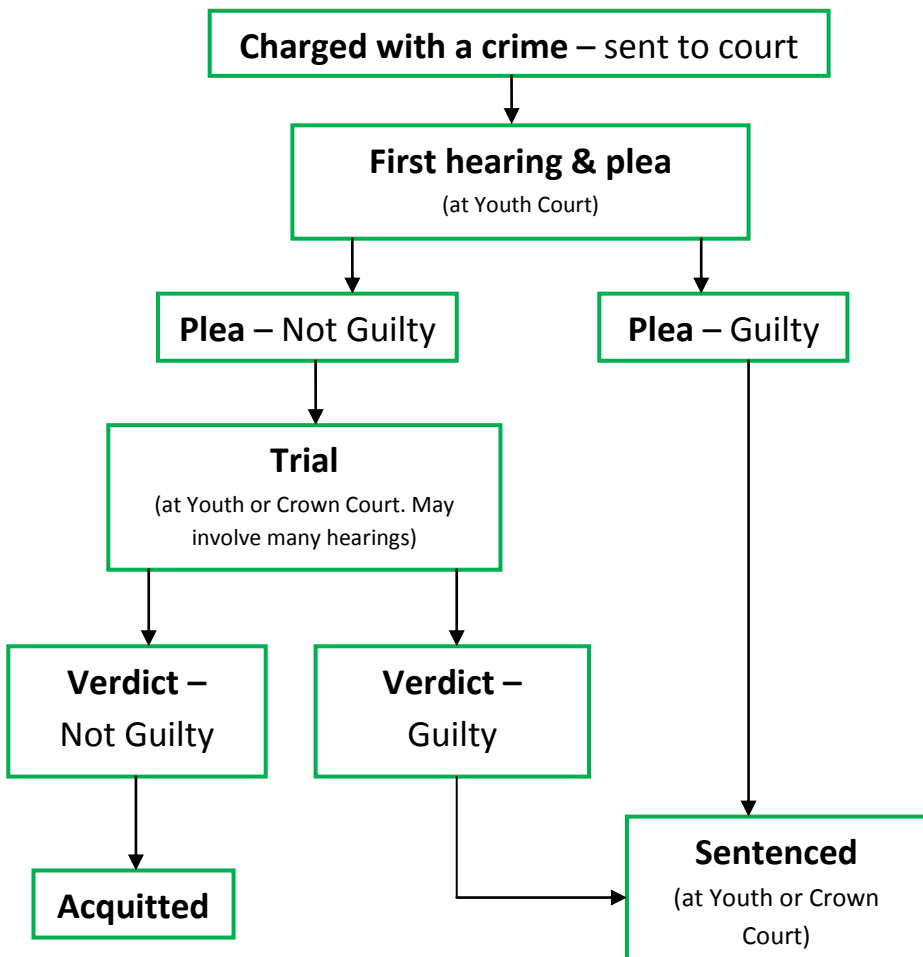
A witness is someone who saw a crime happen, knows something about a crime, or knows the defendant and can talk about how they normally act.

**Youth  
offending  
team**

Staff from the Youth Offending Team may be involved with your son/daughter if they have to go to court. They can help you and your son/daughter to understand what will happen in court, and will have certain roles in the court process. See page 63.

## The court process

If your son/daughter has been charged with a crime and told that they have to go to court, there will be a number of stages. The diagram below shows a simplified version of the court process and you can find more detail about each element of the process throughout the booklet.



## Types of Court

There are two main types of criminal court. The type of court your son/daughter has to go to will depend on the crime they are accused of. The first **hearing** for any type of crime if the defendant is under 18 is always at a Youth Court.

### Youth Court

Youth Courts are **Magistrate's Courts** that deal specifically with cases for people under the age of 18. Because of this, they are similar to adult Magistrate's Courts (although there are some differences discussed below). Youth Courts will hear cases for most types of crimes for people under the age of 18, but if the crime is very serious (like murder) the defendant might have to go to Crown Court – see below.

Magistrates

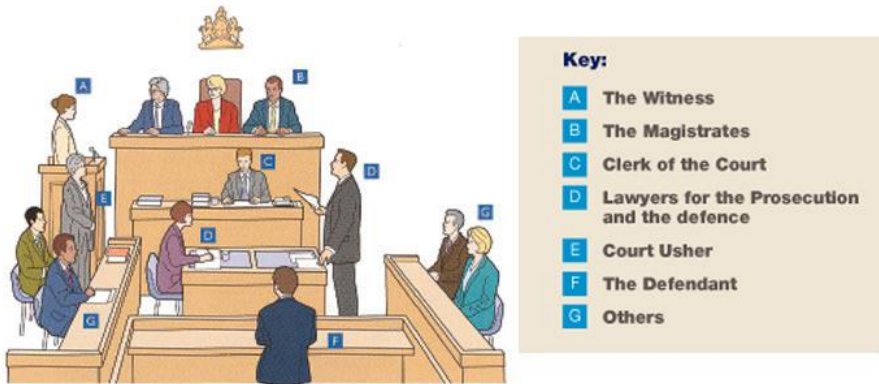
District  
Judge

In a Magistrate's / Youth court there is no **Jury**. Instead, there are three **Magistrates** (or one **District Judge**) who hear the trial and make a decision about whether to **convict** the **defendant** and what **sentence** to impose if the defendant is found **guilty**.

Magistrates do not have full training in the law.

Legal advisor /  
Court clerk

Because of this they are supported by a **legal advisor** (also called a **Court Clerk**) and have guidelines to follow when sentencing (see 'useful resources'). The picture below shows the typical layout of a Magistrate's court.



The first hearing for all court cases where the defendant is under 18 is always at a Youth Court (see page 11). After this hearing, the Magistrates / District Judge will decide whether they can hear the **trial** or whether a **Crown Court** must do this (if the crime is very serious).

There are some differences between adult Magistrate's Courts and Youth Courts. Although the court will be set up in the same way (i.e. with three Magistrates / one District Judge), the hearings will be less formal than in an adult

court. This means that the defendant will be called by their first name and will be allowed to sit with their parents/carers during the hearings. Everyone will be on the same level in the court (i.e. the Magistrates/District Judge will not be sat higher than everyone else like in the picture above) and everyone in court should use simpler language and take time to explain things to the defendant. Unlike in adult cases, the public will not be allowed to watch unless they get special permission.

## Crown Court

A Crown Court will usually hear cases for more serious crimes. If the defendant is under 18 they will only be sent to Crown Court if the crime they are accused of is very serious, like murder. They might also be sent to a Crown Court if an adult is also accused of committing the crime with them, or the Magistrate's/District Judge thinks that the defendant should be given a sentence that only a Crown Court can give (see page 44).

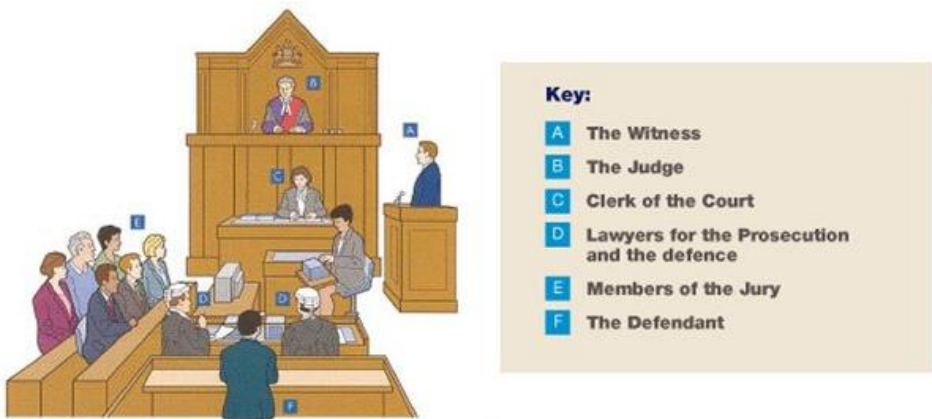
Instead of Magistrates, at a Crown Court a **Judge** and a Jury will hear the case. A judge's job is to control what happens in court. They make sure that everything is in line with the law and will tell the Jury to **acquit** the

Judge

Jury

defendant if they cannot be convicted by the law. The Jury's job is to listen to the trial and decide whether they think the defendant is innocent or guilty based on the **evidence** that they have heard during the trial.

The diagram below shows the typical layout of a Crown Court. For reasons of space, only 6 of the 12 jurors are shown in the diagram.



The Judge at a Crown Court also decides what sentence to give the defendant if they are found guilty. A Judge in a Crown Court is able to give any sentence allowed by law for the crime and will base their decision on the evidence presented to them at the trial, the type of crime that was committed, and the circumstances relating to the crime.

Unlike in a Youth Court, if someone under the age of 18 has to go to Crown Court the public might be allowed to watch in court and the court might not be made less formal. Despite this, people in the court should still use simple language and take the time to explain things to the defendant to make sure that they can take part in the hearings. There are also other forms of help that the court can provide to ensure that the defendant can take part in the hearings - see page 57.



## At the first hearing

The first hearing of a court case for someone who is under 18 will always be at a Youth Court. At the first hearing, your son/daughter will be asked to confirm their name, date of birth, and address. The charge or charges against them will then be read out.

If the case will be heard in Youth Court, your son/daughter will also be asked to enter a **plea**. This means they will be asked to say whether or not they committed the crime. If the case will be heard at a Crown Court, the first hearing at the Crown Court will follow the same procedure as at a Youth Court, but is called “**arraignment**”.

### Getting legal help

Before the first hearing at court, your son/daughter should seek advice from a **lawyer**. This may be free or they may be able to get help to pay for this (see page 56). The lawyer can help them decide what their plea should be, can help to represent them in court if they decide to plead “not guilty”, or instruct a barrister to represent them in court. The lawyer can ask for a psychiatrist or a psychologist to assess your son/daughter before they go to court if necessary.

## Fitness to plead

According to the law, a defendant must be '**fit to plead**' before they can enter a plea or take part in a trial. A defendant **might** not be fit to plead if they have a mental health condition or learning disability, so whether they are fit to plead should be assessed by the court.

Being fit to plead means that the defendant should be:

“capable of contributing to the whole process of his or her trial, starting with entering a plea”  
(British Psychological Society, 2006, pg. 68).

The issue of fitness to plead can be raised at any point but should, ideally, be raised before your son/daughter is asked to enter a plea.

### Fitness to plead in a Crown Court

In order for a Crown Court to think that someone is fit to plead they must be sure that the defendant:

1. Has capacity to plead with **understanding** (i.e. understand the consequences of pleading guilty or not guilty)

2. Has the ability to **follow proceedings** (e.g. the prosecution case against them, the different hearings etc.)
3. Knows that a **juror can be challenged** (i.e. that they can say if they know a juror or think that a juror might be biased)
4. Has the ability to **question the evidence** (e.g. to evaluate whether the evidence is true, think about the implications of different pieces of evidence, challenge elements of the evidence)
5. Has the ability to **instruct counsel** (i.e. to instruct a lawyer to represent them in court and discuss how this should be done).

If concerns are raised about your son/daughter's fitness to plead in a Crown Court, two medical or mental health professionals should assess them to give advice to the court about whether or not they are fit to plead. Your son/daughter might be **remanded to hospital** (i.e. made to be admitted to a hospital under section 35 of the **Mental Health Act** – see page 50) to enable these assessments to be made.

If your son/daughter is found to be unfit to plead, a **trial of**

**the facts** will take place where the evidence will be presented to enable the jury to decide whether your son/daughter committed the crime but not whether they meant to commit the crime or understood that it was wrong. After a trial of the facts, only certain options (sometimes called **disposals**) are available to the court if your son/daughter is found to have committed the crime. These are:

- A **hospital order** (see page 53)
- A **supervision order** – an order which places the offender under the supervision of a social worker or probation officer. A supervision order can last up to two years and can require the person to receive treatment.
- An **absolute discharge** (see page 41)

Probation  
officer

## **Fitness to plead in a Youth Court**

The procedures to identify whether someone is fit to plead are different in a Youth Court as there are no rules for Magistrates / District Judges to follow.

Magistrates might still consider whether your son/daughter is fit to plead and request medical reports to help them decide. If your son/daughter is found to be unfit to plead,

the Magistrates might choose not to proceed with the trial and to send your son/daughter to hospital for assessment or treatment using a hospital order under section 35 or 37 of the Mental Health Act (see page 50). They can only do this if they are sure that your son/daughter committed the crime.

## The plea

If your son/daughter is found to be fit to plead they will be asked to enter a plea. This means they will need to say whether they did the crime (a plea of guilty) or not (a plea of not guilty).



### Guilty

If your son/daughter pleads guilty to the crime, this means that they are **admitting to committing the crime**. There will not be a trial and the court will either sentence them on the same day or will set a date for your son/daughter to return for sentencing.

If your son/daughter pleads guilty at this stage (rather than changing their plea to guilty after a trial has started or being found guilty after the trial), they might have their sentence reduced by up to 30%. This is because pleading guilty early shows that they understand that what they did was wrong and it will avoid the expense and distress of a trial as **witnesses** / **victims** will not have to give evidence.

Your son/daughter should **NEVER** plead guilty if they did not

do the crime just to get through the process quicker.

## Not guilty

If your son/daughter pleads not guilty to the crime they are saying that **they did not do it**. The court case will be **adjourned** and a date will be set for your son/daughter to return for their trial.

## After entering a plea

After they enter a plea your son/daughter might be remanded in **custody**. This means they will be taken to **local authority accommodation** to wait for their trial/sentencing. The place they are taken to might not be nearby and will depend on where there is space for them. Your son/daughter will only be remanded in custody if the court thinks that:

- Your son/daughter **might not show up to court**
- Your son/daughter **might commit more crimes**
- Your son/daughter **might threaten witnesses**

Alternatively, they might be remanded to hospital for assessment or treatment (under section 35 or 36 of the Mental Health Act – see page 50) if the court thinks that your son/daughter needs this. Only a Crown Court can remand a defendant to hospital for treatment (section 36), but both

Magistrate's and Crown Courts can remand a defendant to hospital for assessment (section 36).

If they are not remanded in custody or hospital, they will be remanded on **bail**. This means they will be allowed to go home to wait for their trial/sentencing. They might be given rules to follow to avoid being taken into custody, such as living at a certain place, avoiding certain places, or following a curfew (e.g. having to be home by a certain time). **Bail is free** therefore your son/daughter will **not** have to pay anything to be released if they are granted bail.



## The right to a fair trial

According to the **Human Rights Act** (1998), anyone who has been accused of committing a crime must be **assumed to be innocent unless they are proven to be guilty** and has the right to a fair trial. This right includes five main things:



Human Rights Act 1998

1. To be told (in a language they understand) **what they have been accused of and why**
2. To have **time and resources to prepare for their defence** in court (see page 32)
3. To **defend themselves or to have a lawyer that they have chosen defend them in court**. If they do not have the money to pay for a lawyer they should be given help for free if it is necessary to enable justice to be done – this is called '**legal aid**'.
4. To **examine witnesses against them and to call witnesses to support their defence**
5. To have an **interpreter** to support them in court free of charge

This also involves being able to effectively participate in the trial. There is some help available to enable those who might

find the court process difficult to effectively participate in their trial (see page 57).

## The trial

If your son/daughter pleads not guilty, they will have to return to court at a later date for a trial.

The trial is where all the evidence about a case is presented to help the Judge and Jury (in a Crown Court) or Magistrates / a District Judge (in a Youth Court) decide whether the defendant is innocent or guilty.

In the time between the first hearing and the trial, your son/daughter should seek advice from a lawyer, if they haven't already done this. They may be able to get help to pay for this (see page 56). The lawyer will be able to represent them in court and explain to the court the evidence that suggests they are not guilty.

### How a trial works

There are two sides in a trial; the **prosecution** and the **defence**. The prosecution will talk about the evidence that suggests that your son/daughter is guilty. The defence will talk about the evidence that suggests that your son/daughter is innocent.

In England, the law says that the prosecution must prove

**beyond all reasonable doubt** that the defendant is guilty.

This means that it is up to the prosecution to prove that your son/daughter is guilty, not the other way around. This is called the **burden of proof**.

The trial might involve many hearings and might take a long time. It can sometimes be hard to follow what happens at a trial because the lawyers, Magistrates, or Judge might use complicated language. It is **OK** for your son/daughter to ask to have something explained to them if they don't understand.

There are a number of things that will happen in every trial these are:

- **Opening speeches**
- **Prosecution's case**
- **Defence's case**
- **Closing speeches**
- **Verdict**

These stages are explained in more detail in the next pages.

## **The jury at a Crown Court**

Unlike at a Youth Court, in a Crown Court trial there will be a Jury. A Jury is made up of 12 members of the public whose

job it is to listen to the trial and reach a verdict that they all agree on based on the evidence. Before the start of a trial the Jury will be **sworn in**. This means they must read a statement out loud to say that they will listen to the evidence and decide whether your son/daughter is innocent or guilty based only on the evidence.

Your son/daughter has the right to **challenge a juror** if they know them or think they might be biased. It is very important that the Jury are not biased so that they can reach a fair verdict. It is therefore **VERY** important that your son/daughter tells the judge **when the jury are sworn in** if they know anyone in the Jury or if they think that any of the jury members might be biased. It is **OK** to say this, and the judge will choose someone different.

## During the trial – opening speeches

At the beginning of a trial, the prosecution and defence will make their opening speeches. These set the scene for their case and will summarise their case.

The **prosecution always goes first**. This is because it is up to the prosecution to prove that the defendant is guilty (because of the burden of proof). The defence will only make an opening speech if they intend to call witnesses other than the defendant.

The defence might make an opening speech at the start of the trial or they might wait until the start of their case.



## During the trial – the prosecution's case

The prosecution always go first (because of the burden of proof). They will present the evidence that suggests the defendant is guilty.

Evidence could include a range of things such as;

**Witness testimony** - This is what witnesses say

Witness

when questioned. A witness might be a **character witness** who provides evidence of how the defendant usually acts, they might be someone who saw the crime happen or knows something about the crime, or they might be an **expert witness** which means they are an expert about something which relates to the crime (e.g. if it is about a car crash, they might be an expert in assessing car accidents). The prosecution will ask questions first, and then the defence can ask questions. The prosecution will then be able to ask some final questions to clarify anything the witness said in answer to a question from the defence. Sometimes a **witness statement** will be read out instead of the witness being at court.



**Videos or photographs** – any video or photographs that are relevant will be shown.



**Written or audio records of the police interview** – the lawyers might read out the interview that the police did with your son/daughter when they were arrested.

**Other documents (e.g. victim statements etc.)** – other documents might also be used, such as a statement by the victim about the impact the crime had on them (called an **impact statement**), reports from psychologists or psychiatrists, or other important documents.



**Real objects (e.g. clothing, weapons etc.)** – evidence could include real objects that relate to the crime.

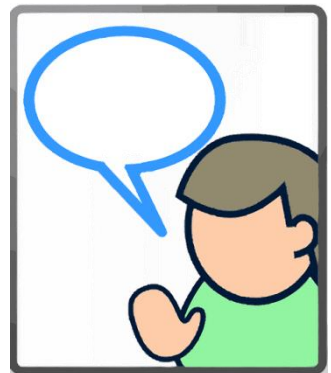


## During the trial – the defence’s case

After the prosecution have finished their case, it will be the defence’s turn to present their case. However if the defence don’t think that the prosecution’s case can prove **beyond all reasonable doubt** that the defendant is guilty, they might try to argue that the prosecution haven’t done their job and try to get the defendant acquitted. This is called “**no case to answer**”. If the Judge/Magistrates don’t agree the trial will continue and the defence will present their case.

The defence’s case will be presented in the same way as the prosecution. They will call witnesses who can testify that the defendant wasn’t involved, or that it is unlikely the defendant to do something like the crime. They might also use other forms of evidence in the same way as the prosecution, for example, reports from a psychiatrist or psychologist.

You son/daughter will usually be asked to speak during the defence’s case to say why they think they aren’t guilty. They don’t have to do this, but it is important to know that the Magistrates/Jury might assume things about your son/daughter if they don’t (e.g. that they might be guilty).



There are some things that can help make giving testimony easier for defendants who are vulnerable (e.g. who are under 18 and have a learning / developmental disability or Autism) – see page 57.

## During the trial – closing speeches

Both sides will then have the chance to make a closing speech. If the trial is for a minor crime or is straightforward, the prosecution or defence might decide not to make a closing speech. If they do decide to make a speech, it will summarise their case and review what they presented during the trial.

In a Crown Court, the judge will also make a speech to sum up the case for the Jury before they retire to consider their **verdict**. This is to ensure that the Jury remember the evidence that they have heard throughout the trial and to remind the Jury about any important points relating to the law.



## During the trial – the verdict

After the closing speeches, the Magistrates or Jury will leave the court room to discuss whether they think your son/daughter did the crime (is 'guilty') or not (is 'innocent'). This is called the verdict.

### How the verdict is decided

**In Magistrate's/Youth Court**, the Magistrates will decide the verdict based on the evidence. At least two of the Magistrates must agree before they can present their verdict.

**In Crown Court** the Jury will decide the verdict based on all the evidence they have heard during the trial. All 12 members of the jury must agree to the verdict in order to present it in court. In some special cases the Judge might allow a **majority verdict** (e.g. 11 jurors agree and 1 disagrees).

### How the verdict will be given

It might take a long time for a verdict to be decided, so your son/daughter might have to return to court after a break. Once they have reached a verdict, the Magistrates/Jury will

return to the court to say what their verdict is.

If the verdict is **NOT GUILTY**, your son/daughter will be **allowed to go home with no further action**.

If the verdict is **GUILTY** they will be **sentenced** for the crime, which means the Judge or Magistrates will decide what consequences to impose. Your son/daughter might be sentenced on the same day or they might have to return to court on another day to be sentenced.



## Sentencing

If your son/daughter pleads guilty, or is found guilty following a trial, they will be convicted and sentenced. Being convicted of a crime means that your son/daughter will have a **criminal record** which will stay on the police file and can be seen if they get into trouble with the police again. It might also influence whether they can have certain types of jobs. The amount of time the conviction will stay on the police file depends on the type of crime.

If your son/daughter is convicted of a crime they will either be sentenced on the same day or at a later date. They might be sent to hospital in between their trial and being sentenced (using an **interim hospital order** under section 38 of the Mental Health Act – see page 54) if the court think they need treatment.



### The purpose of sentences

A sentence for a crime committed by someone who is under 18 is given for two main reasons:

1. To **reduce/prevent future offending** (this is the main aim of the **youth justice system**).
2. To protect the **welfare** of the young person and ensure that they can receive **education and training**

## How sentences are worked out

Magistrates or a Judge will consider many things when trying to work out what sentence should be given for a crime.

These include:

- The **minimum** and **maximum** sentences set out for that crime by the law
- The **effect that the crime had** on the victim
- Any **factors** which **make the crime more serious** (called **aggravating factors**), such as planning the crime, using a weapon, or being drunk, and factors which **make the crime less serious** (called **mitigating factors**), such as doing the crime on the spur of the moment, being provoked, or having gone through a traumatic life experience
- The **offender's previous history**, including whether they have been convicted of other offences in the past
- **Whether the offender pleaded guilty to the crime** early, or whether they **helped the police or the prosecution**

They will also use any **sentencing guidelines** that exist for the type of crime (see 'useful resources').

## Pre-sentence report

Before sentencing, the court can order a **pre-sentence report** to help them decide what sentence they should give. They must order a pre-sentence report if the offence could result in a custodial sentence, and they might also order one if they feel that this would be useful in helping them decide on a sentence. The pre-sentence report is prepared by someone from the Youth Offending Team and considers the type of sentence that might be appropriate for the crime. It will take into consideration the nature and circumstances of the offence, how serious it was, the impact on the victim, the offender's suitability for certain sentences and the impact a particular sentence might have on the offender.

The youth offending team **won't automatically consider the impact of an offender's learning / developmental disability or Autism**, but if a Court knows that the offender has a learning disability or Autism they can ask the probation officer to consider this when they write their report. It is therefore **VERY** important that your son/daughter tells their lawyer about their learning / developmental disability or Autism so that they can tell the court.

The court does not have to follow the recommendations



written in the pre-sentence report, but it can help them decide what sentence is appropriate.

The court can also ask for psychiatric reports or psychological reports. This means the person with a learning disability / Autism will need to see a psychiatrist or a psychologist. Usually this means the court case will be delayed for several weeks until after this has been done.

## Types of sentence

There are a number of different types of sentence that can be given for a crime committed by someone who is under 18. Some sentences can only be given by a Crown Court (indicated below), however most can be given by either a Youth or Crown Court.

### Discharges

For some minor crimes, the Court might decide to give an absolute or **conditional discharge**. This means that your son/daughter has been convicted with the crime (and will have a criminal record), but does not have to serve a sentence because the court thinks that the process of going to court has been enough punishment. A conditional discharge means that if your son/daughter commits another crime they can be convicted of the first crime and the new offence (which is likely to result in a higher sentence being given).

### Fines

A court might decide to give your son/daughter a fine which means that they (or their parent/carer if they are



under 16) will have to pay the court some money. The amount of the fine will be decided based on how serious the offence was and how much money your son/daughter (or their parent/carer) has. A fine might include payment of compensation for the victim or contributing to the costs of the court case.

**Not paying the fine is a crime**, so it is **VERY** important that your son/daughter is able to pay and helped to manage their finances to make sure they have the money to pay if necessary.

### Reparation order

The court may impose a **reparation order**. This order will require your son/daughter to make up for their crime in some way (e.g. apologising to the victim, repairing the damage they caused, working in the community etc.). A pre-sentence report will be written to consider what types of work your son/daughter could do. The requirements of the order must be met within 3 months.

### Referral order

If your son/daughter pleads guilty to the crime and it was their first offence the court must give them either a **referral**

**order** or a **custodial sentence** (see below). A referral order is a type of **community sentence** where your son/daughter will have to meet with a **youth offending panel**, made up of members of the community and the youth offending team, to agree a contract which says what they will do to make up for their crime and any other work or support they must have. Making up for the crime is called **reparation** and could include apologising to the victim, paying for damage caused, repairing damage caused etc. Your son/daughter may also have to attend interventions to tackle their offending behaviour, which could include things like specific programmes or counselling. They might also have to abide by certain conditions if they are given a referral order, such as a curfew.

The order will last between three and twelve months, and the court might check on your son/daughter regularly throughout this time. If they commit another crime while under a referral order, they will have to go back to court. They might have the referral order removed and they might be sentenced again for the original crime and the new crime. So it is **VERY** important that your son/daughter understands what they have to do while on a referral order, and does not commit any more crimes.

## Youth rehabilitation order

A **youth rehabilitation order** is another type of community sentence that can be given for crimes committed on or after the 30<sup>th</sup> of November 2009. It is more intensive than a referral order and will involve complying with specific conditions and being supervised by an **offender manager** from the youth offending team. There are three levels of youth rehabilitation order that can be given which relate to the intensity of the supervision and conditions that will be imposed. The levels are:

- **Standard:** for offenders who are thought to be at a low risk of reoffending or causing further harm. The order will focus on repairing the damage caused by the crime.
- **Enhanced:** for offenders who are thought to be at a medium risk of reoffending or causing further harm. The order will focus on both repairing the damage caused by the crime and providing help or support to the offender to change their behaviour.
- **Intensive:** for offenders who are thought to be at a high risk of reoffending or causing further harm. The order will focus on; repairing the damage caused by the crime, helping the offender to change their behaviour, and controlling the offender to minimise

further harm and prevent reoffending. The order may include intensive supervision or a period of **foster care** (see below).

The order will include a number of conditions that your son/daughter must abide by. These conditions may have different end dates to the main order, but all conditions must be fulfilled by the end of the order. Conditions that might be imposed with the order could include:

- **Activity requirement** (your son/daughter will have to do certain things, e.g. attend education)
- **Supervision requirement** (your son/daughter will have to meet with a probation officer regularly)
- **Unpaid work requirement** (if your son/daughter is aged 16 or 17, they will have to do between 40 and 240 hours of unpaid work)
- **Programme requirement** (your son/daughter will have to take part in a programme, e.g. an anger management programme)
- **Attendance centre requirement** (your son/daughter must go to an **attendance centre** for between 12 and 36 hours)
- **Prohibited activity requirement** (your son/daughter will not be allowed to do certain things)

- **Curfew requirement** (your son/daughter will have to abide by a curfew, this may include electronic monitoring with a **tag**)
- **Exclusion requirement** (your son/daughter will not be allowed to go to certain places)
- **Residence requirement** (your son/daughter will have to live with a specific person or at a particular place, this could include living in local authority accommodation, e.g. a children's home, for up to 6 months)
- **Mental health treatment requirement** (your son/daughter will have to undergo treatment related to their mental health condition, this could include treatment as an inpatient in hospital. They will be asked to consent to this)
- **Drug/intoxicating substance treatment requirement** (your son/daughter will have to undergo treatment to help them stop using drugs/intoxicating substances. They will be asked to consent to this)
- **Drug testing requirement** (your son/daughter will have to have tests which can tell whether they have taken drugs. They will be asked to consent to this)
- **Education requirement** (your son/daughter will have to take part in education)

- **Intensive supervision and surveillance** (if your son/daughter is placed on an intensive youth rehabilitation order, they will have an extended activity requirement which lasts longer than a normal activity requirement. They will also have a curfew with a tag, and a supervision requirement)
- **Intensive fostering** (used instead of intensive supervision and surveillance if your son/daughter is placed on an intensive youth rehabilitation order. They will have to live in foster care for up to 12 months and will also be given a supervision requirement)

## **Custodial sentences**

If the offence is serious, your son/daughter might be given a custodial sentence, which means they will be detained in a type of prison (see Youth Custody booklet for information on types of custody for youth offenders). In some circumstances the court might send an offender to hospital instead of custody (using a hospital order under the Mental Health Act – see page 53). If the court sentences your son/daughter to custody, they will be given one of three types of sentence:

**Detention and Training Order:** A **detention and training order** can be imposed by either a Youth or



# 1

Crown court. The order will be for 4, 6, 8, 10, 12, 18 or 24 months. Your son/daughter will usually spend half of this time in custody and half under supervision in the community.

**Long term detention (under section 91 of the Powers of Criminal Evidence Act 2000 and section 226 and 228 of the Criminal Justice Act 2003):** These acts allows a Crown Court to impose a custodial sentence for someone under the age of 18 that is the same amount of time as would be given to an adult offender for the same crime. The Crown Court might impose one of four types of sentence under this category:

- A **determinate sentence**, where the court will say how long your son/daughter must be in custody and they will spend half of this time in custody and half **on licence** in the community
- An **indeterminate sentence**, where the court will set a minimum amount of time that your son/daughter must be in custody (called a **tariff**) before a **Parole Board** will consider when they can be released. They will then spend time on licence in the community.
- An **extended sentence**, which is the same as an

# 2

indeterminate sentence but there will be an extended licence period.

- A **discretionary life sentence** which is the same as a life sentence for an adult for serious crimes, meaning that your son/daughter will be in custody for a minimum amount of time (the tariff) and will then be on licence for life.

### **Detention during her majesty's pleasure (under section 90 of the Powers of Criminal Evidence Act**

**2000)**: This is a custodial sentence which is similar to a **life sentence** for an adult offender. Your son/daughter will spend a minimum amount of time in custody (the tariff) and will only be released if a Parole Board thinks that they no longer pose a risk to the public. After they are released they will be on licence for the rest of their life.

3

# The Mental Health Act

The Mental Health Act (1983 & 2007) is the law that ensures people who have a learning disability or Autism or mental health condition are sent to psychiatric hospital if necessary. It states how they should be supported by the mental health services, even if they don't agree.



Mental Health Act 1983

Mental Health Act  
2007

The act is there for anyone who has a **mental health condition**. It also applies to anyone who has **a learning / developmental disability/Autism** if they are acting in an “abnormally aggressive or seriously irresponsible way”. It applies to people of **any age**.

Part II of the Act is for civil sections, i.e. for requiring a person in the community to go to a psychiatric hospital, even if they don't want to.

Part III of the Act allows criminal justice professionals (i.e. the police, courts) to require an individual to be admitted to hospital for assessment or treatment if health professionals agree that the individual needs it (i.e. if the person or others are at risk of harm and would be unlikely to voluntarily access it in the community). Assessment allows criminal

justice professionals to get information about the individual's needs to inform the trial and sentencing decisions. Treatment is to improve the person's mental health when that is thought to have (partly) led to the crime.

There are a number of sections in part III of the Act that can be used by the police or court if someone is accused of having committed a crime. These sections are described in the next few pages. (Part II of the act contains the civil sections, i.e. ways of making people go to hospital regardless of crimes)

## Remand to hospital for assessment - Section 35

Section 35 of the Act allows the police, Crown or Magistrate's/Youth Court to require a defendant to be admitted to hospital for **assessment**. They can only do this if a doctor/psychiatrist suspects that the defendant has a mental health condition and needs to be assessed. Section 35 allows the defendant's needs to be assessed and a report to be written to inform the court during the trial or sentencing.

Doctor /  
psychiatrist

If your son/daughter is sent to hospital under section 35 they **cannot** be required to have treatment. They can be kept at the hospital for up to 28 days in the first instance, but the

court can renew this if your son/daughter needs more assessment. They cannot be kept at the hospital for longer than 12 weeks in total.

If your son/daughter is remanded to hospital for assessment under section 35 they might not be taken to a hospital straight away if there is not space at the hospital. They must be taken there within 7 days, but while they are waiting they may be taken to a **place of safety** which might be a different hospital, prison / youth custody, or a police station.

### **Remand to hospital for treatment - Section 36**

Section 36 of the act is the same as section 35 but allows a Crown Court only (i.e. **not** the police or a Magistrate's / Youth Court) to send a defendant to hospital to be required to have **treatment**. The Crown Court can do this at any point before or during the trial if **two** doctors/psychiatrists agree that your son/daughter has a mental health condition which needs treatment and that treatment is available.

If your son/daughter is admitted to hospital under section 36 of the act they **cannot** refuse treatment while at the hospital.

## Hospital & guardianship orders - Section 37

A hospital or guardianship order can only be made if the defendant is convicted of a crime that could be given a custodial sentence. The orders may be given as an **alternative to a custodial sentence**. If the court gives a hospital or guardianship order they cannot then impose another type of sentence for the crime.

**Hospital orders:** A hospital order allows the court to require the person to be admitted to a specific hospital instead of being sent to prison / youth custody. The person can be made to have treatment (including medication) while at the hospital. A hospital order can last 6 months in the first instance but can be renewed as many times as necessary. After the court makes a hospital order, your son/daughter should be taken to the hospital within 28 days, and might be taken to a place of safety to wait for space in the hospital.

**Guardianship orders:** A **guardianship order** allows a court to require that a **local authority act as a guardian** for your son/daughter and supervises them in the community. Your son/daughter can be made to

follow certain rules while under a guardianship order, such as living at a specific place, attending appointments for treatment, education, or training, and to allow a health professional access to their home.

### **Interim hospital orders - Section 38**

Interim hospital orders allow the court to admit an offender to hospital after they have been convicted but before they are sentenced. An interim hospital order might be made if **two** doctors/psychiatrists agree that your son/daughter has a mental health condition and needs to receive **treatment** before they are sentenced. The order can be made for up to 12 weeks in the first instance but can be renewed. Your son/daughter cannot be kept in hospital for more than one year under an interim hospital order.

### **Restriction orders – Section 41**

A restriction order can be **added to a hospital order to restrict when your son/daughter can be released from hospital**. A restriction order might be given if there are concerns about public safety. A restriction order means that your son/daughter will not be able to be released from hospital unless the **Secretary of State** agrees. Only a Crown

Court can give a restriction order, but a Magistrate's / Youth Court may send your son/daughter to the Crown Court if they think a restriction order is necessary.



## Legal Aid

Unlike at the Police station, legal advice if your son/daughter is charged with a crime and has to go to court is not automatically free.



If your son/daughter is **under 16 (or under 18 and in full time education)** **they will be given free legal aid**, however if they are **over 16 and not in full time education they will not automatically get legal aid**. Your son/daughter can, however, get free legal advice from a **Duty Solicitor** at Youth Court regardless of their age.

Solicitor

If your son/daughter is over 16 and not in full time education they might have to pay all of the costs of legal advice or contribute to the costs if they are sent to Crown Court. Your son/daughter can ask a solicitor for advice about whether they are eligible for legal aid or they can ask for an application form from the court.

It is **VERY** important that your son/daughter gets advice from a lawyer and help with their defence in court, therefore it is worthwhile to find out whether they are eligible for legal aid.

## Help during the court process

The court process and trial may be confusing and difficult to follow. There are some ways that the court can provide help to your son/daughter during the process, however it is important to note that these are limited. There are also only some things that the court **must** do according to the law, and most of the help that the court can provide is not a legal requirement.

It is **VERY** important that your son/daughter tells their lawyer or the court as soon as possible that they have a learning/developmental disability or Autism. That way the court can offer help as early as possible in the process.

### Help the court **MUST** provide

The court must consider allowing your son/daughter to give evidence at their trial by **video link**. This means that they won't have to be in the courtroom when they answer questions, but can do this from a different room with a link to the courtroom using a camera. Your son/daughter's solicitor can make an application for this, or the Court may decide to do it if they know that your son/daughter has a learning/developmental disability.

## Help the court MIGHT provide

The court might also provide other forms of help to your son/daughter. These are things that have been done in the past or that guidance says might be useful (see ‘useful resources’).

- Allow the **removal of the wigs and gowns** worn by lawyers and the Judge in Crown Court
- **Restrict members of the public** attending the trial in Crown Court
- Allow your son/daughter to **visit the courtroom** before their trial so they know that it looks like
- Change their **communication** to make it easier to understand
- Provide information in **easy read** format
- Allow **more time for the trial**, and for your son/daughter **to answer questions** when they give evidence
- Change aspects of the **environment** if necessary (e.g. the lighting, temperature, layout etc.)
- Allow your son/daughter to **sit with their family**, support worker, someone else who they are familiar with, rather than in the **defendant's docks**
- Allow your son/daughter to **communicate with their lawyer** during the hearings

- Provide an **intermediary** who can help your son/daughter when they give evidence by
  - Helping **communication** between your son/daughter and the lawyers, Judge, or Magistrates
  - Help lawyers, the Judge, or Magistrates to **rephrase their questions** to make them easier to understand
  - Provide information on how to make questioning easier for your son/daughter, such as how often they might need **breaks**, or how **long they might need to answer a question**.

Intermediaries are specially trained and are often speech and language therapists. They are in short supply.

It is **VERY** important that your son/daughter gets any help they need in order to make sure that they can give the best evidence at their trial. There is lots of evidence that people with a learning disability / Autism do not understand court processes and court language very well and do not fare well in cross examination. It could be easy for lawyers to trip them up. They should talk to their solicitor to find out what help they might be able to get.

## Liaison & diversion services

Liaison &  
Diversion  
staff

Another way that your son/daughter might be able to get help during the court process is through Liaison and diversion services. Liaison and diversion services are NHS services which support the identification, assessment, and referral of people of **all ages** who have mental health conditions or learning disabilities in the criminal justice system. They aim to:

- **Divert** people out of the criminal justice system where possible
- **Reduce** the **time** people with learning disabilities / Autism / mental health conditions spend in **custody** (at a police station or in prison / youth custody)
- **Reduce** the amount of **time** spent in court and delays in the **court** process due to lack of information or assessments
- **Reduce repeat arrests** by improving access to treatment in the community
- **Improve access to treatment** and support generally
- **Improve health outcomes**

### How a referral to the service is made

Once it has been identified that a person might have a

learning disability or Autism or mental health condition, the police or court staff can make a referral to the liaison and diversion service, if there is one in their area. Some liaison and diversion services may also accept referrals from the defendant themselves, or from their friends, family or carers.

### **What happens after a referral is made**

After receiving a referral, the service will arrange to assess the person to identify whether they have a learning disability or Autism or a mental health condition and refer them to treatment and support if necessary. The service is able to work with community health and social care services to make sure that the person is receiving good support in the community as well as whilst they are going through the criminal justice system.

They will also provide information to staff in the criminal justice system about the person's learning disability / Autism / mental health condition so that they can take this information into account when making decisions.

### **Limitations of liaison and diversion services**

Although liaison and diversion services do aim to help people with learning disabilities / Autism, it is important to note that

they may be relatively new services in some areas and they might not have expertise at every service in supporting people with learning disabilities. They are also not currently available in all areas as NHS England are undertaking a trial of Liaison & Diversion Services across 10 sites in England. There are plans to make Liaison and Diversion Services available in every area by 2016/2017.

## **How to contact your local Liaison & Diversion service**

As the Liaison and Diversion scheme is still in a trial phase, there is no central list of all Liaison and Diversion services. If you'd like to contact your local Liaison and Diversion service you should be able to get their details from a police station or your local Magistrate's/Youth/Crown Court. Alternatively, you may be able to find their details by searching for them online.

To find out more information about Liaison and Diversion services visit:

<http://www.england.nhs.uk/commissioning/health-just/liaison-and-diversion/>

## Youth offending teams

Youth offending teams work with people under the age of 18 who have committed a crime, or are at risk of committing a crime, and their families. They are made up of lots of different types of professionals which could include:

- The police
- Social workers
- Probation officers / offender managers
- Education staff
- Housing officers
- Psychologists
- Family workers

The main aim of the youth offending team is to prevent offending by children and young people. Because of this, they work with young people at a number of stages of involvement with the criminal justice system.

The youth offending team might help young people **before they commit a crime** if they are identified as being at risk of committing a crime. This could include providing them with a crime prevention programme or offering other forms of support (e.g. addressing problems relating to housing or their family situation) to prevent them committing a crime.



They also help young people **who have committed a crime**, and this may involve providing them with information and support throughout their involvement in the criminal justice system, supervising them if they have been given a community sentence or have been released from custody, and helping to prevent them from reoffending.

## **The youth offending team in court**

The youth offending team has a number of roles in court. These involve:

- Assessing the young person's **needs**
- Preparing **reports** for the court, including a pre-sentence report which outlines the sentences that might be appropriate and how the young person would cope with particular sentences
- Providing **information** to the court and other relevant agencies (e.g. custodial placements, escort services which transfer the young person to their placement etc.) about the young person's needs
- Providing **information** to the young person and their family about the court process and helping to **engage** them in the process
- Ensuring that young person **understands and comes to term with their sentence**

## Contacting your local YOT

Every area in England has a youth offending team. You can find your local team by visiting:

<https://www.gov.uk/government/collections/youth-offending-team-contact-details>

## How you can help

If your son/daughter has to go to court it can be a very stressful and confusing time for both you and them, but there are some things you can do to help.

- Use this **booklet** and the **‘useful resources’** websites to find out about the court process so that you’re well prepared and can help your son/daughter to prepare
- **Attend court hearings** with your son/daughter to offer them support. If your son/daughter is under 16 you **MUST** attend court with them and if you are not at court the case will be adjourned until another day.
- Help your son/daughter to **find and access legal advice**
- Make sure that your son/daughter **knows how important it is to tell their lawyer or the court about their learning / developmental disability** and any other needs they have (e.g. communication or sensory needs) so that they can get help
- **Ask about an intermediary** if you think this may help
- **Make a referral to your local liaison & diversion**

**service** if this has not already been done

- **Contact your son/daughter's social worker / nurse / psychiatrist / psychologist** if they have one, so that they can help talk to the lawyers and court.
- **Contact your local youth offending team** if you have not already met with them, as they may be able to offer information and support during court

## **Legal advice for yourself**

You could also get advice from a solicitor for yourself which might help you to understand what is happening and how you can best help your son/daughter. You can obtain legal advice by contacting any solicitor (e.g. by searching for one in your area online, going into a solicitor's office, finding one in the phone book, or asking the police / court to suggest someone you could contact). It is important to note that they will charge for their services, so it will not be free.



## Useful terms

**Absolute discharge:** when someone is convicted of a crime but the court decides not to sentence them because the process of going to court has been enough punishment. See page 41.

**Acquitted:** when a defendant is found not guilty.

**Adjourn:** the name given when the court takes a break and sets a date or time for another hearing.

**Adult court:** court for defendants who are over 18.

**Age of criminal responsibility:** This is the age when a person is considered to be responsible for their actions, know right from wrong, and know how to obey the law. In England the age of criminal responsibility is 10 years old.

**Aggravating factors:** factors that make a crime more serious that a Judge or Magistrates will consider when deciding on a sentence.

**Arraignment:** a hearing in Crown Court where the charges are read out and the defendant is asked to enter a plea.

**Arrest:** when the police think someone has committed a crime and take them to the police station to find out more.

**Attendance centre:** a place where a young offender who has been convicted may be required to go to for a certain number of hours. The centre will provide support to prevent reoffending, e.g. classes on maintaining safety, promoting health and social skills etc.

**Bail:** when a defendant is allowed to go home in between court hearings. May involve rules that must be followed. Bail is free so the defendant will not have to pay anything to be released.

**Barrister:** a type of lawyer. See “**Lawyer**”.

**Burden of proof:** that the prosecution must prove beyond all reasonable doubt that the defendant is guilty, not the other way around.

**Character witness:** a witness who provides information about how the defendant normally acts or what their personality is like.

**Charge:** when the police think that someone has committed a crime and should go to court they will “charge” them with the crime.

**Community order/sentence:** a type of sentence that involves the offender doing something in their community. See page 42.

**Conditional discharge:** when the defendant has been convicted of a crime but the court decides not to impose a sentence because the process of going to court has been enough punishment. A conditional discharge means that if the offender commits another crime within a certain time they will be charged with the first crime and the new one, which will result in a higher sentence being given. See page 41.

**Convicted:** when someone pleads guilty or is found guilty of a crime.

**Court:** the place where people say what they know about the crime to help a judge or jury decide if the person committed the crime. If it is decided that the person did commit the crime, the court also decides what consequences the person should have for committing the crime.

**Court clerk:** the person in court who records what happens in the court and helps to manage proceedings. May be called a Legal Advisor in Magistrate's / Youth Court and provide the Magistrates with advice about the law.

**Crime:** any action that breaks the law. This may also be called an offence.

**Criminal justice system:** the system in England that deals with people who are suspected of or have committed a crime.

**Criminal record:** a record held on the police file if someone has been convicted of a crime.

**Crown court:** a type of court that deals with more serious crimes and has a Judge and Jury. See page 13.

**Crown prosecution service:** the service in England and Wales that is involved in all cases and decides what charges should be given and which cases should go to court. They also provide lawyers who prosecute (i.e. lawyers who set out the evidence that suggests the person committed the crime). They also sometimes decide that charges can be dropped.

**Custodial sentence:** another name for a type of sentence that involves prison / youth custody.

**Custody:** the name for a defendant being held somewhere. This might be a police station, cells at a courtroom, prison / youth custody etc.

**Defence:** the side in a trial which tries to prove that the defendant is innocent.

**Defendant:** the name given to someone who has been charged with a crime before they have been found innocent or guilty.

**Defendant's docks:** the place in court where the defendant may be made to sit. This might be behind a glass screen,



locked, or involve being handcuffed.

**Detention and training order:** a type of custodial sentence for young offenders – see page 47.

**Determinate sentence:** a type of custodial sentence. See page 48.

**Developmental disability:** a type of disability usually present from birth which may also co-occur with a learning disability. Examples include Autism, Fragile X Syndrome, Down syndrome etc. A developmental disability may be identified by psychological or medical tests.

**Discretionary life sentence:** a type of custodial sentence that is the same as a life sentence for adults for serious crimes.

**Disposal:** the name given to the different sentences that might be given after a court case.

**District judge:** someone who sits in a Magistrate's / Youth Court instead of Magistrates. District judges are legally trained and paid.

**Duty solicitor:** a type of solicitor who can provide help in a Magistrate's / Youth court to people who don't have a solicitor. See page 56.

**Easy read:** a way of preparing documents with simpler

language and pictures to make them easier to read.

**Evidence:** anything related to a crime that can help prove the defendant is guilty or innocent in court.

**Expert witness:** someone who is an expert about something that is relevant to the crime, e.g. an expert in assessing car accidents.

**Extended sentence:** a type of custodial sentence. See page 44.

**Fine:** a type of sentence where the offender has to pay the court some money. See page 41.

**Fit to plead:** in order to be convicted, a defendant must be found to be “fit to plead”. See page 17.

**Foster care:** a type of temporary care where the person will leave home to live with some foster parents for a period of time. This can be a requirement of a youth rehabilitation order – see page 47.

**Guardianship order:** an order that places someone under the supervision of the Local Authority instead of sending them to prison / youth custody. See page 53.

**Guilty:** when the defendant admits to committing the crime, or a court said that they committed a crime.

**Hearing:** any meeting at court when the Judge or Magistrates are present.

**Hospital order:** an order that a court can make under the Mental Health Act if someone has been convicted of a crime, as an alternative to sending them to prison / youth custody. The order requires the person to be admitted to a specific hospital for treatment. See page 53.

**Human rights act:** the law that says what rights every person should have.

**Impact statement:** a statement from a victim which says how the crime has affected them. May be read out in court as evidence.

**Indeterminate sentence:** a type of custodial sentence. See page 48.

**Interim hospital order:** a type of order that a court can make under the Mental Health Act after someone has been convicted but before they are sentenced. The order requires the person to be admitted to hospital for assessment and/or treatment. See page 54.

**Intermediary:** someone who can help a defendant with a learning/developmental disability or mental health condition when they give evidence in court. See page 59.

**Judge:** the person in Crown Court who is responsible for making sure that the trial follows the law.

**Jury:** 12 members of the public who listen to a trial in a Crown Court and must decide whether the defendant is innocent or guilty based on the evidence.

**Lawyer:** someone who can help defendants in court. Lawyers can be either defence lawyers or prosecution lawyers, and include both solicitors and barristers.

**Learning disability:** a type of disability which is usually present from birth and results in the person having difficulty with certain things such as communication, independent living, or social skills. A learning disability includes the person having an IQ below 70 and this is usually identified using specific types of psychological tests.

**Legal advisor:** someone in Magistrate's / Youth Court who gives advice about the law to the Magistrates.

**Legal aid:** financial help that can be given to defendants to help them pay for legal advice and defence.

**Liaison & diversion service:** services that support people in the criminal justice system who may have a learning or developmental disability, or mental health condition. See page 60 for more information.

**Life sentence:** a type of custodial sentence. See page 49.

**Local authority accommodation:** the place where defendants who are under 18 will be placed if they are remanded in custody. This will be somewhere managed by the local authority, like a secure children's home.

**Magistrates:** volunteer members of the public who have received a small amount of training to be able to hear trials for minor and some serious cases in a Magistrate's Court.

**Magistrate's court:** a type of court that deals with minor crimes and has three Magistrates instead of a Judge and Jury. See page 11.

**Majority verdict:** when nearly all of the members of a Jury or Magistrates must agree in order to make a verdict.

**Mental Health Act:** the law that protects people in hospitals who have a learning disability or autism or mental health condition and states how they should be supported. This may include being required to stay in hospital, in a locked ward if necessary. See page 50 and the Mental Health Act booklet for further details.

**Mitigating factors:** things that make a crime less serious that a Judge or Magistrates will consider when deciding on a sentence. See page 38.

**No case to answer:** when the defence don't think that the prosecution's case can prove beyond all reasonable doubt that the defendant is guilty.

**Offender:** another name for someone who has been convicted of a crime.

**Offender manager:** another name for a probation officer.

**On licence:** when an offender has been released from prison / youth custody and must be monitored by a probation officer and follow certain rules for a period of time.

**Parole board:** the group of people who decide whether someone who is on an extended or indeterminate sentence is no longer a risk to the public and can be released from custody.

**Place of safety:** a place where a person who has a mental health condition might be taken to keep them or other people safe. This might include a hospital, a police station, or a prison.

**Plea:** the defendant saying whether they are guilty or innocent in the first hearing of a court case.

**Pre-sentence report:** a report prepared by a probation officer to give the court information about the crime and what sentence might be appropriate. See page 39.

**Probation:** when a person has been charged and found guilty of a crime but the court does not think the person should go to prison / youth custody, or if the person has just been released from prison / youth custody, they are said to be on “probation”. If they have just been released from prison / youth custody, this might also be called “on licence” or on “parole”. Probation means the person is still serving their sentence for the crime, but is allowed to do this in the community. Probation will have rules that must be followed in order to avoid going back to court or prison / youth custody. See probation booklet for more information.

**Probation officer:** someone whose job it is to supervise offenders when they have been released from prison / youth custody or have been given a supervision order. Probation officers also prepare pre-sentencing reports.

**Prosecution:** lawyers in the trial who will try to prove that the defendant is guilty.

**Referral order:** a type of sentence given to a youth offender which will involve meeting with a youth offending panel and deciding a programme of work to make up for the crime and prevent reoffending. See page 42.

**Remanded to hospital:** when a defendant is admitted to hospital under the Mental Health Act for assessments or treatment. See page 51.

**Reparation:** the name given to actions that make up for a crime, e.g. repairing damage or apologising to the victim.

**Reparation order:** the order that can be made by a court to require that a youth offender makes up for their crime in some way. See page 42.

**Restriction order:** an order that can be added to a hospital order to restrict when an offender can be released from hospital. See page 54.

**Rights:** things that protect a person during a trial and which they must be allowed to have. See page 24 for more information.

**Secretary of state:** a member of the Government who deals with the Criminal Justice System.

**Sentence:** the name given to the consequences imposed by a court when someone has been convicted of a crime.

**Solicitor:** a type of lawyer who can give advice about the law to someone who is going through the criminal justice system.

**Supervision order:** a type of order given by a court that means the offender will have to be supervised by a probation officer and will have to follow certain rules.

**Sworn in:** when a witness or Jury are asked to read a



statement (called an oath) that says they will listen to the evidence (if they are a Jury member) or tell the truth (if they are a witness).

**Tag:** the electronic monitor that an offender must wear on their ankle if this is a requirement of their youth rehabilitation order. See page 46.

**Tariff:** the minimum length of time that an offender must be in custody for if they are given an indeterminate sentence. See page 48.

**Trial:** the process in court of finding out whether someone is guilty or innocent of a crime they have been accused of. May involve many hearings.

**Trial of the facts:** the type of trial where the defendant has been found unfit to plead and the Jury can decide whether the person did the act (not whether they meant to or understood that it was wrong).

**Usher:** a person who works at a court and helps manage the trial.

**Verdict:** the name given to a Jury's or Magistrate's decision about whether a defendant is guilty or innocent.

**Victim:** someone who has been hurt or upset by a crime that involved them.

**Video link:** a link between the courtroom and another room that allows witnesses or defendants to give evidence without having to be in the courtroom.

**Witness:** someone who knows the defendant or saw a crime happen.

**Witness statement** a written record of something that witness said which may be read out as evidence in court.

**Youth court:** a type of Magistrate's Court that deals with court cases for people who are under 18.

**Youth custody:** the name given to the different types of prison placements for offenders who are under 18.

**Youth justice system:** the part of the criminal justice system that deals with people who are under 18.

**Youth offending panel:** a team of people (made up of someone from the youth offending team and members of the public) who work with young offenders who have been given a referral order to decide a programme of work. See page 43.

**Youth offending team:** a team of professionals who support young people who are at risk of committing crimes or who have committed a crime. The youth offending team aims to prevent offending/reoffending by children and young

people. See page 63.

**Youth rehabilitation order:** a type of community sentence given to a youth offender which will involve a number of requirements. See page 44.

## Useful resources

This is a list of the places where information for this booklet was found and other resources that you might find useful. It is important to note that some of these resources are not specifically about children and young people, however they will still be relevant if your son/daughter is under 18.

### **Advice Now (Legal Aid)**

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

### **A joint inspectorate of the treatment of offenders with learning disabilities within the criminal justice system**

Phase one *from arrest to sentence*

<https://www.justiceinspectorates.gov.uk/cji/inspections/joint-inspection-of-the-treatment-of-offenders-with-learning-disabilities-within-the-criminal-justice-system-phase-1-from-arrest-to-sentence/#.Vge8VflVikp>

Phase two *in custody and the community*

<https://www.justiceinspectorates.gov.uk/cji/inspections/learningdisabilitiesphase2/#.Vge8cPlViko>

**The Bradley Report** about how people with mental health problems or learning disabilities are treated in the criminal justice system.

<https://www.rcpsych.ac.uk/pdf/Bradleyreport.pdf>

## **Citizens Advice information pages**

General information on legal system:

<https://www.citizensadvice.org.uk/law-and-rights/legal-system/>

Legal aid

<https://www.citizensadvice.org.uk/law-and-rights/legal-system/taking-legal-action/help-with-legal-costs-legal-aid/>

Young people and the law

<https://www.citizensadvice.org.uk/law-and-rights/legal-system/young-people-and-the-law/>

## **Crown Prosecution Service**

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

Youth offenders

[http://www.cps.gov.uk/legal/v to z/youth offenders](http://www.cps.gov.uk/legal/v%20to%20z/youth%20offenders)

## **Department of Health ‘Positive Practice Positive Outcomes’ Report**

<https://www.gov.uk/government/publications/positive-practice-positive-outcomes-a-handbook-for-professionals-in-the-criminal-justice-system-working-with-offenders-with-a-learning-disability>

### **Gov.uk information pages**

General information on legal system:

<https://www.gov.uk/browse/justice>

Criminal Courts

<https://www.gov.uk/courts>

Legal aid

<https://www.gov.uk/legal-aid>

Youth offending teams

<https://www.gov.uk/youth-offending-team>

### **KeyRing criminal justice system resources:**

<https://www.keyring.org/cjs>

### **Law Centres Network (Legal Aid)**

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

## **Liaison & Diversion Services**

<http://www.england.nhs.uk/commissioning/health-just/liaison-and-diversion/>

## **MENCAP resources on the criminal justice system**

<https://www.mencap.org.uk/raising-your-game/resources>

## **Mental Health Act Code of Practice (see, in particular, chapters 22)**

<https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983>

## **National Autistic Society: Criminal Justice information pages**

<http://www.Autism.org.uk/working-with/criminal-justice.aspx>

## **Offenders' Families Helpline**

<http://www.offendersfamilieshelpline.org/>

Youth courts

<http://www.offendersfamilieshelpline.org/index.php/sentencing-youth-courts/>

## **Open Justice**

<http://open.justice.gov.uk/>

## **Prison Reform Trust**

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

*No One Knows* project:

<http://www.prisonreformtrust.org.uk/ProjectsResearch/Learningdisabilitiesanddifficulties>

*Fair Access to Justice* Report

<http://www.prisonreformtrust.org.uk/Publications/ItemId/156/vw/1>

*Mental Health & Learning Disabilities in the Criminal Courts* Report

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

*Vulnerable Defendants in the Criminal Courts* Report

<http://www.prisonreformtrust.org.uk/Portals/0/Documents/vulnerable%20defendants%20in%20the%20criminal%20courts.pdf>

## **Rethink Mental Illness criminal justice system pages**

<http://www.rethink.org/living-with-mental-illness/police-courts-prison>



*Mental Health & Learning Disabilities in the Criminal  
Courts Report*

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

**Sentencing Council (includes sentencing guidelines)**

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

*“Sentencing youths: Definitive guidance”*

<https://www.sentencingcouncil.org.uk/publications/item/overarching-principles-sentencing-youths-definitive-guideline/>

**Youth Justice Board**

<https://www.gov.uk/government/organisations/youth-justice-board-for-england-and-wales/about>

*“Making it count in court” report*

<http://yjbpublications.justice.gov.uk/engb/Scripts/prodView.asp?idproduct=457&eP>

*“National Standards for Youth Justice Services”*

<https://www.gov.uk/government/publications/national-standards-for-youth-justice-services>

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