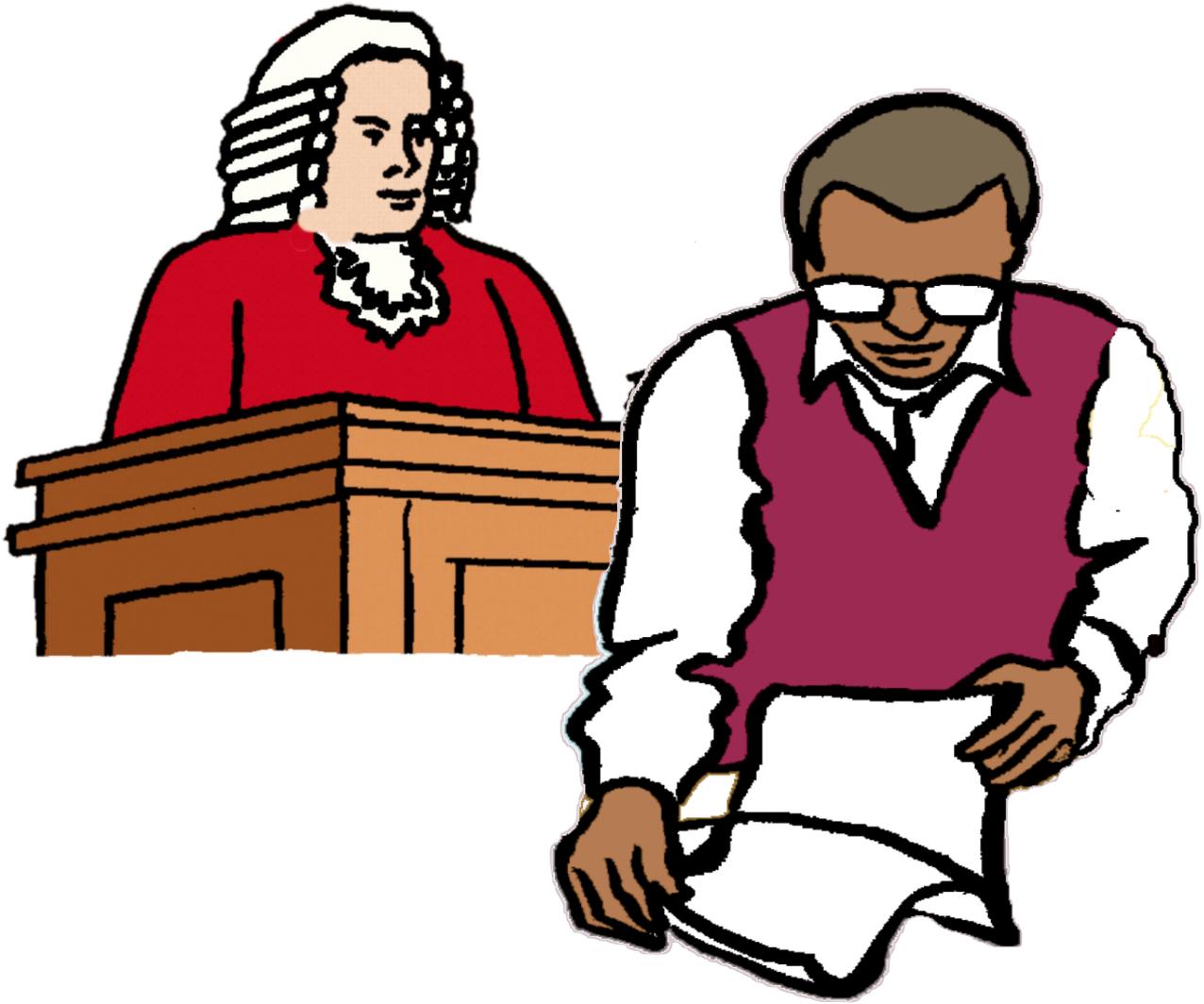




Law  
Commission  
Reforming the law



# Criminal appeals



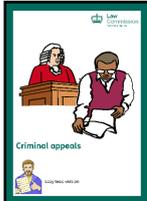
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**Law  
Commission**  
Reforming the law

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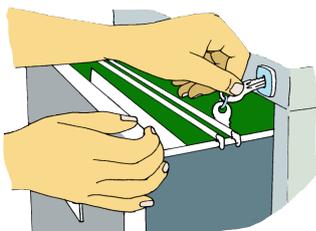
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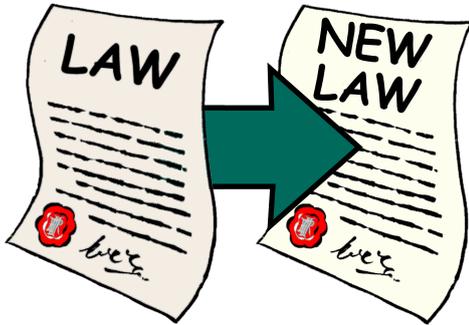
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# About us

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We are the Law Commission of England and Wales.



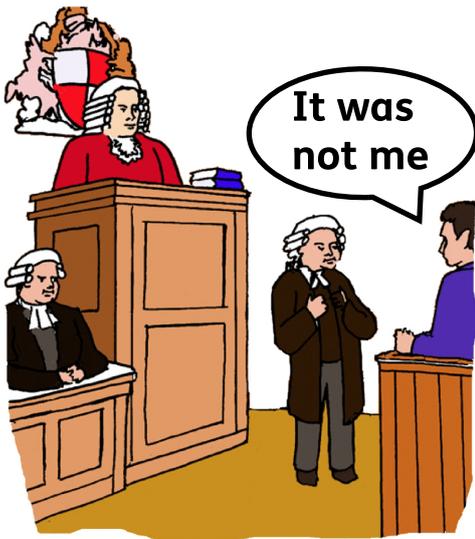
We make suggestions to the Government about changing the law in England and Wales.

# What this paper is about

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The Government has asked us to look at laws about criminal appeals.



In this paper we talk about **miscarriages of justice**. When someone is convicted of something they didn't do, or when they shouldn't have been convicted, this is a **miscarriage of justice**.



We want you to tell us what you think.



Please look at the questions in **blue**.

# When a person breaks the law

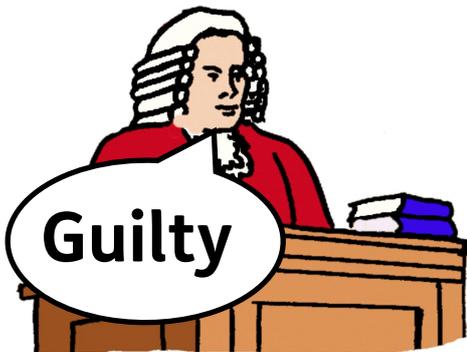
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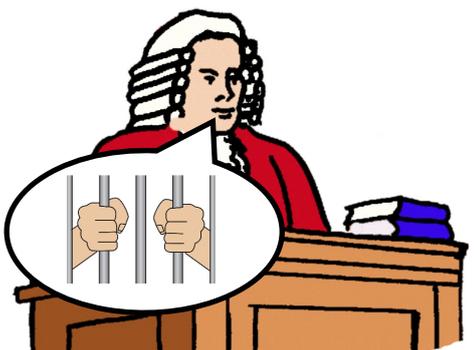
A **crime** happens when a person has broken the law. Murder, theft and drug dealing are examples of crimes.



The person goes to court for a court hearing. This is called the **trial**.



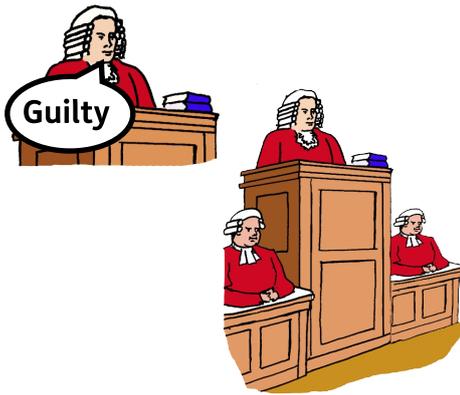
If the court finds they are guilty of the crime the person has a **conviction**.



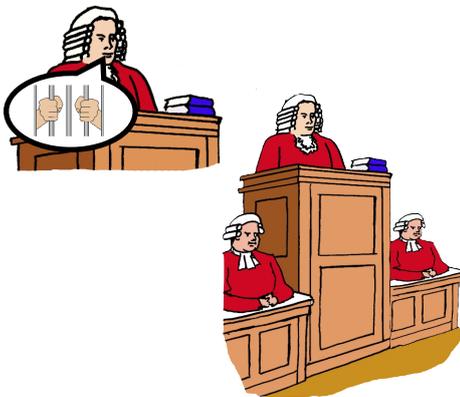
The court decides what the punishment will be. This is called a **sentence**.

# Criminal appeals

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A person who has been convicted of a crime can ask another court to look at their **conviction**. This is called an **appeal**.



A person who has been convicted of a crime can also ask another court to look at their **sentence**. This is also called an **appeal**.

# Magistrates' courts

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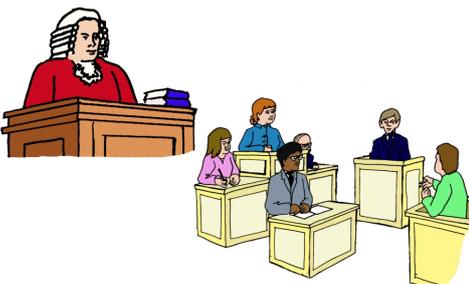
Most crimes are dealt with by magistrates' courts.



Magistrates' courts deal with less serious crimes like shoplifting and driving offences.



More serious crimes, like murder, are dealt with in the Crown Court.



Some crimes, like criminal damage or sexual assault, might go to the magistrates' court or the Crown Court, depending how serious they are.



## People working in magistrates' courts

Sometimes a trial in a magistrates' court will be heard by a District Judge.



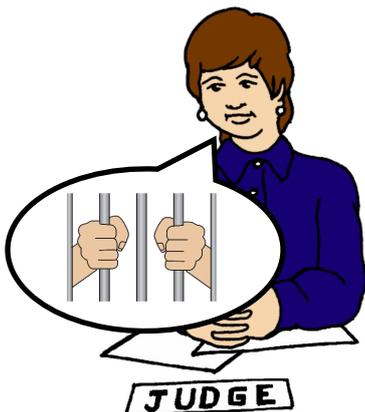
The District Judge:

- listens to the **evidence**

**Evidence** is information that helps to prove something is or is not true.



- decides if the person did the crime



- says what the punishment will be. This is called a sentence.



Sometimes a magistrates' court will be made up of three ordinary people who are not judges.

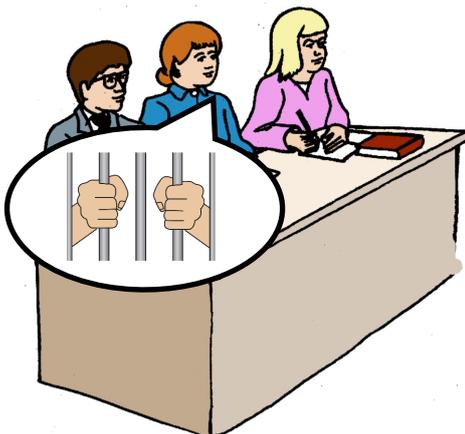


They:

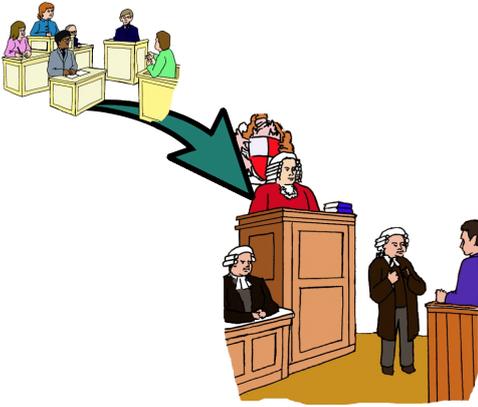
- listen to the evidence



- decide if the person did the crime



- say what the punishment will be.



## Magistrates' appeals

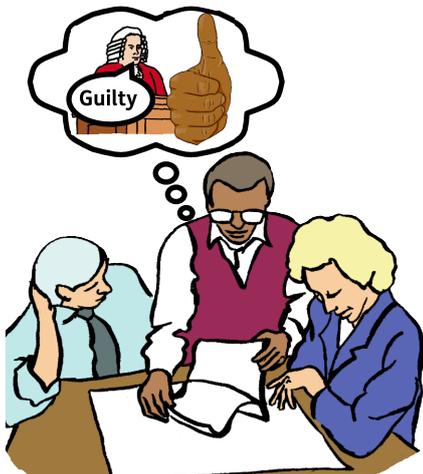
Where a person has been convicted in a magistrates' court they are allowed to have a new trial in the Crown Court. This will be heard by a judge and two magistrates who are not judges.



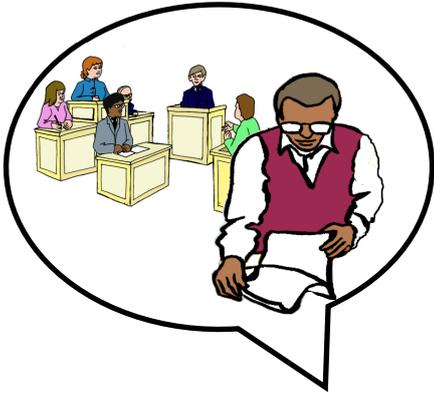
A person can also ask for their sentence to be looked at by the Crown Court.



Some people say that a person shouldn't always be allowed to have a whole new trial.



They think that the Crown Court should just look at what the magistrates' court did and decide if the conviction is safe.



There are other ways that a person can appeal decisions from a magistrates' court.



They can ask the High Court to look at whether the magistrates' court understood the law correctly.



Some people say that there should just be one way of appealing a magistrates' court's decisions.



**We want you to tell us if the law on appeals from magistrates' courts should be made simpler.**

# The Crown Court

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The Crown Court deals with serious crimes.

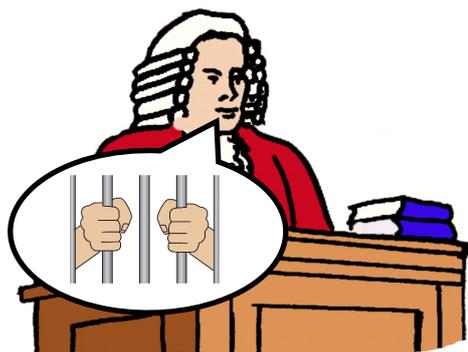


In these cases, a **jury** decides whether the person committed the crime or not.

A **jury** is a group of ordinary people that the court has asked to listen to the evidence and decide if the person is guilty or not guilty.



The judge makes decisions about the law.



If the person is convicted, the judge decides what the sentence will be.



## Crown Court appeals

When a person is convicted in the Crown Court, they can ask the Court of Appeal if it will look at their case.



The Court of Appeal does not let everybody who asks for an appeal have one.



People must show the court they have new evidence or that there was a mistake during the trial.



## How the Court of Appeal decides

If the Court of Appeal is willing to hear the appeal it will use different tests to decide the appeal.

1. If the person is appealing their conviction.



The Court of Appeal will ask if the conviction was **unsafe**.

**Unsafe** means that the court isn't sure that the person should have been convicted.



The court might decide that the conviction is unsafe because there is new evidence, and if this evidence had been known about at the trial the person might not have been convicted.



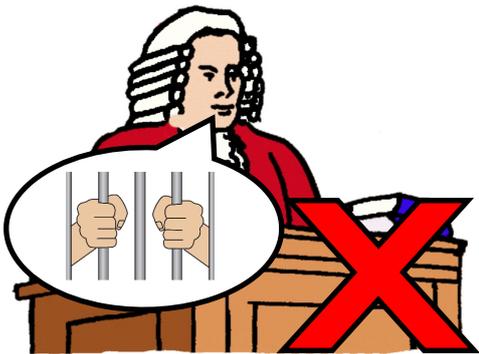
The court may just think the person should not have been convicted. This is unusual.

2. If the person is appealing their sentence.



The Court of Appeal will ask:

- was the punishment too harsh?
- was it a sentence that the court wasn't allowed to give?



**We want you to tell us if the tests used by the Court of Appeal make it too hard to fix miscarriages of justice.**

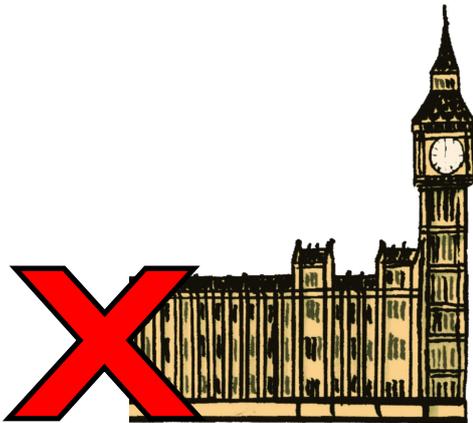
(Remember: A miscarriage of justice is when someone is convicted of a crime that they didn't do.)

# The Criminal Cases Review Commission or the CCRC

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The CCRC is the short name for a group of people called the Criminal Cases Review Commission.



This is an **independent** group of people.

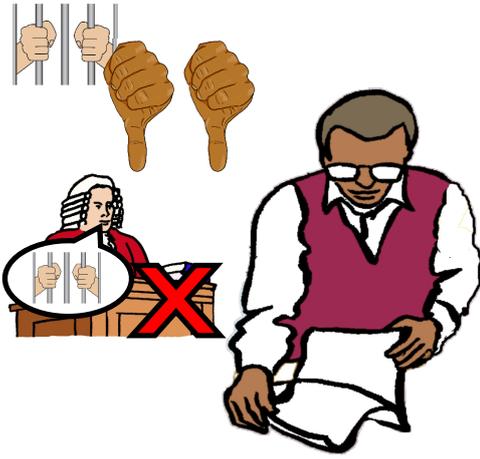
**Independent** means they do not work for the Government or the courts.



The CCRC can look at cases where someone has lost their appeal and still thinks they were wrongly convicted or given the wrong sentence.



If the CCRC finds something new and important it can send a case for a fresh appeal.



The CCRC will only send a case for a fresh appeal if they think the court might say that the conviction was unsafe, or that the sentence was too harsh.



Some people think that the CCRC doesn't send enough cases to the Court of Appeal.

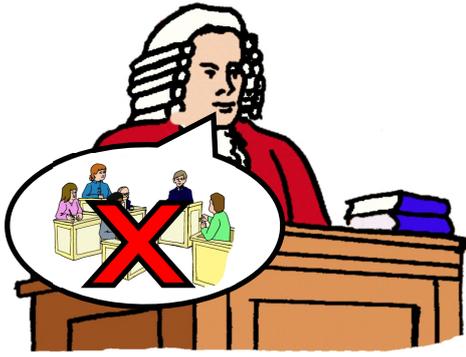
**Rules**

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

We want you to tell us if the rules about when the CCRC can send a case for an appeal might get in the way of fixing miscarriages of justice.

# The substantial injustice test

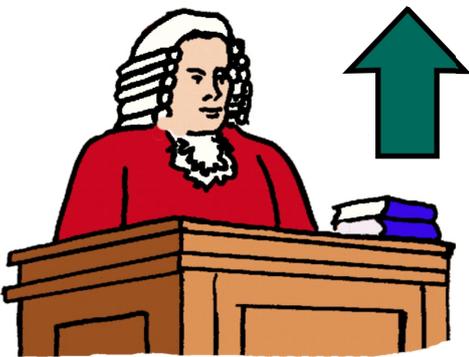
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Sometimes a court will decide that the way that courts dealt with a law was wrong.



This doesn't mean that everyone who was convicted under the old law will be able to appeal their conviction.



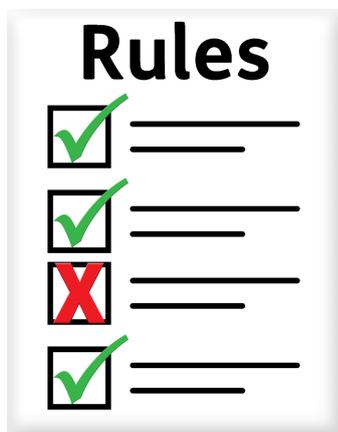
There would be too many cases for the courts to cope with.



It can also be very difficult to hold new trials a long time after the crime was committed.



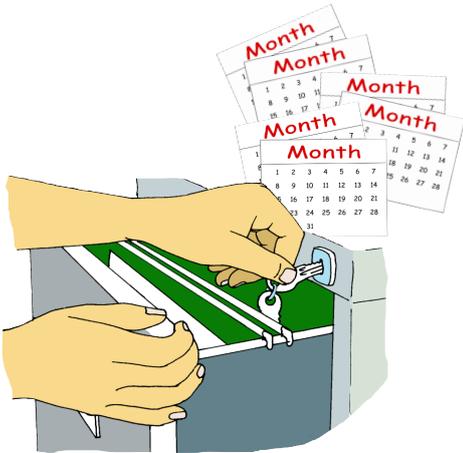
So a person can only appeal their conviction if they can show that there was a **substantial injustice** because the law was not applied correctly.



We want you to tell us if the **substantial injustice rule** is getting in the way of fixing miscarriages of justice.

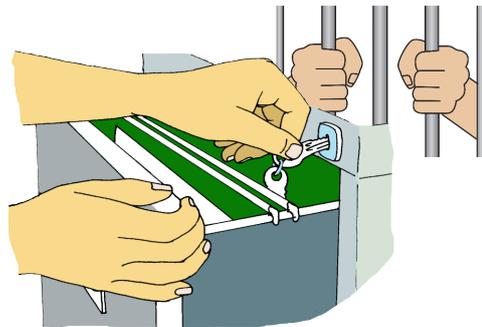
# Evidence

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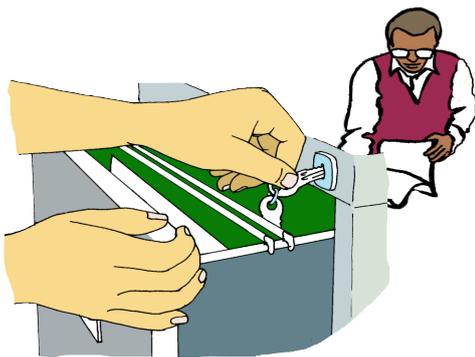


## The law about keeping and sharing evidence

When a person is convicted the police should keep the evidence they collected for at least six months.



If the person is sent to prison the evidence should be kept for all the time that they are in prison.



If a person appeals their conviction or have asked the CCRC to look at their case, the evidence must still be kept.



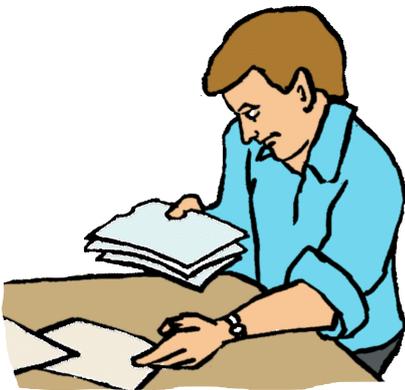
When a person has been convicted, the police and the prosecution are supposed to share any evidence with them that might help with their appeal.



They are also supposed to share any evidence that they find which shows that the conviction was unsafe.



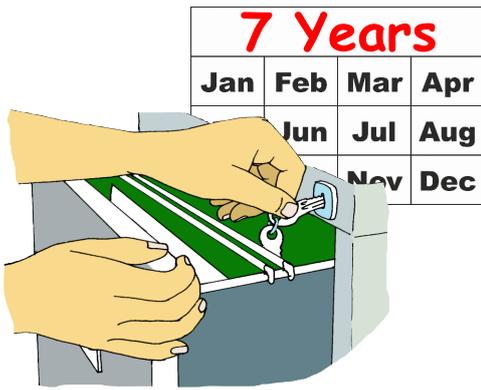
Some people have told us that the police don't share information when they are supposed to.



They say that the police are wrongly telling people that they have to ask the CCRC to ask for the evidence.

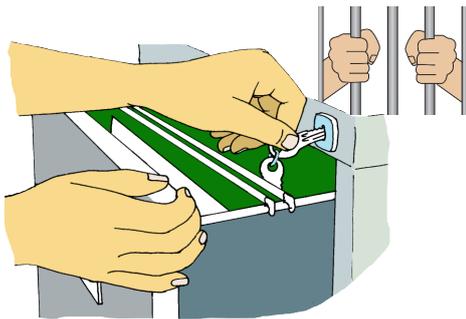


**We want you to tell us if the law about keeping and sharing evidence after a person is convicted is okay.**



## The law about keeping court records of what happened during a trial

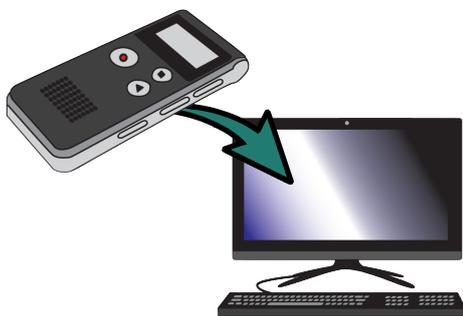
The rules say records should be kept for up to 7 years.



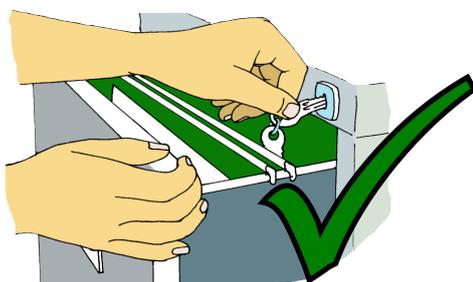
If the crime was murder or terrorism, or the person is sent to prison for more than 7 years, the files should be kept forever.



Sound recordings of what people said during Crown Court trials should be kept for up to 7 years.



The Court of Appeal has asked whether this is right because sound recordings can now be kept on digital files very easily.



**We want you to tell us if the law about keeping the records of what happened during a trial is okay.**

## What the words mean

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**Appeal** - when a person who has been convicted of a crime asks another court to look at their conviction or sentence.

**Conviction** - when the court finds the person is guilty of the crime.

**Crime** - when someone has broken the law.

**Evidence** - information that helps to prove something is or is not true.

**Independent** - means they do not work for the Government or the courts.

**Jury** - a group of people that the court has asked to listen to the evidence and decide if the person is guilty or not guilty.

**Miscarriage of justice** - when someone is convicted of a crime they didn't do or when they shouldn't have been convicted.

**Sentence** - the punishment the court gives out for a crime.

**Substantial injustice** - the test that the court uses when deciding whether a person should be allowed to appeal because the law has changed since they were convicted.

**Trial** - when a person goes to court.

**Unsafe conviction** - unsafe means that the court isn't sure that the person should have been convicted.

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