

**Notice by the Prosecutor
that the Defendant or Appellant
is not permitted to cross-examine particular
witnesses in person.**

Section 34 and 35 of the Youth Justice and Criminal Evidence Act 1999
Part 23 Criminal Procedure Rules 2015



The Queen v. _____

Or

In the Appeal of: _____

This is a notice to the court and to¹: _____

Address of defendant/appellant: _____

Telephone number²: _____

Email: _____

**This notice is about the court case at
the:** _____

Due for hearing on: _____

Court case number: _____

Court address: _____

You are accused of³: _____

To the defendant/appellant:

Why have you been sent this notice?

You have been sent this notice because the prosecutor believes that you do not have lawyers to represent you and you will be representing yourself in the case. This is called acting "in person";

What you need to know:

1. The prosecutor says that the charges against you include charges where you are prohibited by law from asking some of the witnesses questions yourself. The questions you may want to ask are called "cross-examination".
2. The prosecutor explains in Part 1 who those witnesses are and why it is said that this law applies;
3. If the law applies then you will not yourself be allowed to ask those witnesses any

¹ Name of defendant or appellant

² Provide telephone and email contact details if known.

³ List charges by type – no details are required.

questions during the case. Any questions you want those witnesses to be asked in cross-examination can only be asked through a lawyer who is qualified to appear in the court.

What are your choices?

You have three choices if you want those particular witnesses to be asked questions in cross-examination:

1. You can appoint lawyers to represent you for the whole of the case; OR
2. You can arrange lawyers only to cross-examine the witnesses concerned on your behalf. If you do this you must inform the court within 14 days of this Notice being served on you of the name and contact details of that lawyer: OR
3. If you do not want to appoint your own lawyer, or you do not inform the court within 14 days of this notice being served on you that you have arranged a lawyer then, if the court considers it to be in the interests of justice, the court may choose to appoint a lawyer to cross-examine the particular witnesses in your interests. In that case the court will choose the lawyer; the lawyer will not be responsible to you and that lawyer will not play any other part in the case.

What to do next.

1. If you do have lawyers representing you in this case then send this form to them straightaway and they can deal with it for you.
2. If you do not yet have lawyers representing you then you must fill out Part 2 of this form and send it to the court at the address above to within 14 days after this notice is served on you.
3. This is your opportunity to tell the court what you say about this application and what you want to happen. If you do not fill out Part 2 and send it in the court will make decisions without knowing what you think.
4. You have the opportunity to ask the court to arrange a hearing so that decisions can be made about this. The court will decide if one is necessary.

PART 1 – To be completed by the prosecutor

This notice is given by the prosecutor⁴:

Address:

Telephone:

Email:

Person to contact about this application:

The prosecutor gives notice to the court and to the defendant/appellant that the defendant/appellant is prohibited in law from cross-examining the particular witness(es) listed below unless it is done through a lawyer.

This is because:

⁴ Insert organisation – eg. CPS. It is not necessary to name an individual but contact information must be given below.
Notice by prosecutor that cross-examination in person is prohibited by law - Page 2 of 7

You are accused of a sexual offence and the witness is the complainant (Section 34)

Witness name(s):

Or

You are accused of an offence listed in section 35(3)(a)⁵ and the witness is either the complainant or a witness to the commission of the offence and is under the age of 18 (or falls to be cross-examined after the playing of whole or part of video recorded evidence which was recorded when the complainant was under the age of 18 or having given evidence in chief in some other way whilst under 18).

Witness name(s):

Or

You are accused of an offence listed in section 35(3)(b); (c) or (d)⁶ and the witness is either the complainant or a witness to the commission of the offence and is under the age of 14 (or falls to be cross-examined after the playing of whole or part of video recorded evidence which was recorded when the complainant was under the age of 14 or having given evidence in chief in some other way whilst under 14).

Witness name(s):

The witnesses affected can include persons who are also charged alongside you with an offence in the proceedings if they give evidence.

Witness name(s):

Sign and date the form:

Signed for the
prosecutor:

Dated:

PART 2 – To be completed by the defendant/appellant (or by his lawyers)

If you have already appointed lawyers to represent you they should provide their contact information:

Name of firm:

Address:

Telephone:

Email:

⁵ Any of sections 33 to 36 of the Sexual Offences Act 1956; the Protection of Children Act 1978; or Part 1 of the Sexual Offences Act 2003 or any relevant superseded enactment.

⁶ Kidnapping, false imprisonment, or an offence under section 1 or 2 of the Child Abduction Act 1984; any offence under section 1 of the Children and Young Persons Act 1933; or any other offence which involves an assault on, or injury or a threat of injury to, any person.

Person to contact about this case or
Case Progression Officer:

We confirm that the defendant/appellant has instructed us to represent him in the case.

Details of funding – Mark a box

- Privately funded;
- Legal Representation Order applied for;
- Legal Representation Order granted.

If you have NOT already appointed lawyers to represent you then you must fill out the rest of this form and return it to the court within 14 days.

Please confirm your contact details:

Your address:

Your telephone number:

Your email:

Please answer these questions – You may use a separate sheet of paper if you need to:

Do you dispute that the law prohibiting you from cross-examining the named witness(es) applies in this case? If so provide your reasons.

Reasons:

Do you want the court to arrange a hearing in order to make decisions about this Notice? If so provide your reasons.

Reasons:

Please tell the court about your choices. Mark a box

I will be arranging a lawyer to represent me for the whole case and provide the lawyer's contact information below:

Or

I will be arranging a lawyer to cross-examine the particular witnesses and provide the lawyer's contact information below:

Or

I will NOT be arranging a lawyer and understand that the court will decide if it is necessary in the interests of justice to appoint a lawyer to cross-examine witnesses to represent my interests. I understand that lawyer will not be responsible to me and will cease to be involved when the questioning of that witness ends:

If you have said that you will be arranging a lawyer to represent you for the whole case or just for the cross-examination of the particular witnesses you must give the contact information below:

Name of firm:

Address:

Telephone:

Email:

Person to contact about this case:

Please sign and date the form:

Signed:

Dated:

PART 4 – Court Decision

LISTING:

HHJ/DJ/JP

Date:

This matter can be decided without a hearing

Or

List for an oral hearing

Time estimate

Hearing reserved to: HHJ/DJ/JP

DECISION:

HHJ/DJ/JP

Date:

The court is satisfied that the prohibition applies to the witnesses named in this notice.

The court is satisfied that the defendant/appellant has arranged legal representation for the case as a whole

Or

The court is satisfied that the defendant/appellant has arranged for a lawyer to cross-examine the particular witnesses and provided contact details

Or

The defendant/appellant has either stated that s/he does not wish to arrange for a

lawyer OR has not given notice either way:

If the defendant has not elected to arrange representation the court has considered whether it is necessary in the interests of justice for the witness(es) to be cross-examined by an advocate appointed to represent the defendant/appellant's interests and concluded:

It is not necessary to appoint such an advocate:

Or

It is necessary to appoint such an advocate and it is directed that:

1. Within 7 days court to arrange for the appointment of an advocate and notify the defendant/appellant AND the prosecutor AND the Witness Care Unit;
2. Within 7 days after that the prosecutor to provide to the appointed advocate copies of the served statements in the case and any record of interview of the defendant⁷;
3. The appointment of the advocate will terminate at the conclusion of the cross-examination of the last particular witness.
4. [Other]

Note of reasons if required:

⁷ The court will want to consider what else may need to be served in the particular case, either by the prosecutor or from the court file.

PART 5 – Court Action – To be completed by the court office

Notice of Prohibition sent out: Date: Staff Member:

Notice of Appointment sent out: Date: Staff Member:

Details of advocate appointed if not recorded on a Notice of Appointment:

Staff Member: Date:

Advocate appointed:

Date of appointment:

Address:

Telephone:

Email:

Date of Notification to the
defendant/appellant AND to the
Prosecutor AND to the Witness Care
Unit:

Notes:

END