

Court Appointed Advocate - Guidance for Defendants

What is a court appointed advocate?

The Magistrates' and Crown Courts have the power to appoint an Advocate under section 38 of the Youth Justice and Criminal Evidence Act 1999. This is why you might hear the Court Appointed Advocate being referred to as a 'section 38 Advocate'.

The Court can appoint an Advocate only if you do not have your own legal representation.

The Court Appointed Advocate is independent from the Court. However, the Advocate not your legal representative either.

How can the Court Appointed Advocate help me?

Before the Court appointed an Advocate, it will have decided that you should not be allowed to cross examine (ask questions of) some, or all, of the prosecution witnesses yourself. The Court will have explained its reasons for making that decision. If you are unsure, however, ask the Judge, Magistrates or court clerk to explain the decision to you again.

The Court Appointed Advocate is only allowed to cross examine the prosecution witnesses that have been named by the Court. However, whilst the Advocate is carrying out the cross examination, he or she will represent your interests.

So that the Advocate can represent your interests properly, he or she will ask to have a private conversation with you. You will be asked you for information about your defence so that the Advocate can decide the questions to ask the witnesses. It is in your best interests to talk to the Advocate.

The Court Appointed Advocate is bound by professional rules of confidentiality. The Advocate will not tell the Court or prosecution about anything that you discuss in private unless you give permission to do so.

The Advocate can also carry out work that is related to the cross examination. For example, the Advocate can make an application to tell the court about relevant previous convictions that a witness may have. That is called a 'bad character application'.

What is the Court Appointed Advocate not allowed to do?

The Advocate cannot cross examine prosecution witnesses other than those witnesses that the court has named.

The Advocate is not able to remain involved in your case after the cross examination of the named witnesses has finished unless the court orders the Advocate to do so. This means that the Advocate will not be able to help you give evidence by asking you questions (this is called 'examination in chief'). The Advocate will not be able to ask questions of any defence witnesses you may want to call, nor make a closing speech on your behalf at the end of the case.

The Advocate cannot carry out any work on your behalf that does not relate to the cross examination of the witnesses named by the court.

If you want to have an Advocate who can represent you through the whole of the trial you will need to try to get legal aid or pay for a legal representative yourself. If you want to have an Advocate to represent you through the whole of the trial you should contact a Solicitor or the Public Defender Service to see if they are able to assist you.

I **confirm that I have read the above guidance. I understand the limitations to the work that the Court Appointed Advocate can carry out in my case.**

Signed:

Dated: