

## An overview of legal tests used to prosecute a defendant

### The Full Code Test

To charge a defendant with an offence, a two-stage test must be met – this is known as ‘The Full Code Test’.

#### 1. Evidential Test

Prosecutors must first be satisfied that there is sufficient evidence to provide a realistic prospect of conviction i.e. is the court more likely than not to convict the defendant. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

#### 2. Public Interest Test

If The Evidential Test is passed then public interest factors need to be considered. These will include the seriousness, age of the defendant, harm caused to the victim/community and proportionality. It may not be in the public interest to charge the defendant despite there being sufficient evidence.

N.B. In high risk cases a ‘Threshold Test’ can be applied to charge a defendant pending the receipt of further evidence if it is reasonably believed this evidence will pass the ‘Full Code’.

### Beyond Reasonable Doubt

The standard of proof required for criminal cases in England and Wales is ‘beyond reasonable doubt’.

- There must not be any degree of reasonable doubt for a verdict of guilty. The evidence must have convinced the court so that it is sure of the defendant’s guilt.
- This stops just short of saying that the court has to be absolutely certain.
- If the court has ANY reasonable doubt about the defendant’s guilt then it **MUST** not convict.



*It is necessary for the evidence against the defendant to be strong to pass the above tests and convict a defendant. However, it is important to note that where a defendant is not charged or convicted, it does not mean that there is no evidence against them. It simply means that these tests have not been passed.*