

### Assault of a child under 13 by penetration

A person commits an offence if he

- intentionally penetrates the vagina or anus of another person. Placing a finger, or indeed anything else, into the inside of a vagina or anus is penetration. The penetration does not have to be deep. Any degree of penetration, however slight, is penetration. Placing a finger into the crack, between the cheeks of a bottom is not penetration, if the finger does go inside the anus.
- the penetration is sexual. The reason for this is so that, e.g. doctors carrying out medical examinations are not guilty of any offence. No one has suggested that, if D\*\* put his finger into C\*\*'s vagina and/or anus, it was anything other than sexual.
- the other person is under 13. C\*\* was aged \*\* at the time. There is no doubt that she was under 13.

So, the only questions that you have to answer, separately in relation to Counts \* and \*, having regard to all the evidence and the directions which I give, are

Did D\*\* place his finger inside C\*\*'s anus?

Did D\*\* place his finger inside C\*\*'s vagina?

If you are sure the answer is “yes”, he is guilty. If the answer may be “no”, he is not guilty of assault by penetration.