

# Victim and witness care

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Written by College of Policing

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This section of authorised professional practice (APP) describes the importance of the police role in supporting victims and witnesses throughout the criminal justice process. Victims and witnesses are entitled to rights and support but are unlikely to be familiar with the processes and agencies involved. There are several arrangements documents in place to guide and protect victims, and witnesses involved in the criminal justice system before and after a suspect has been charged which all officers and staff must be aware of.

## The Code of Practice for Victims of Crime

Victims are entitled to 'rights' within the [\*\*Victims Code of Practice \(VCOP\)\*\*](#) and are entitled to support and services under the Code throughout the Criminal justice process.

The victims' rights in the Code are applicable to:

- anyone who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence
- a close relative (or a nominated family spokesperson) of a person whose death was directly caused by a criminal offence

Witnesses who have suffered harm including physical, mental or emotional harm or economic loss as a direct result of witnessing crime, are a victim for the purposes of the Code. All others can access services under the Witness Charter.

The police have a number of duties under the Code, arising from the first point of contact (see the [\*\*APP on investigation – Working with victims and witnesses\*\*](#)). Police officers and staff must fully acquaint themselves with the content of the Code, the victim's Rights, and the obligations in relation to those rights.

The Ministry of Justice has produced [\*\*a number of products\*\*](#) to assist the relevant service providers across the criminal justice system, including the police, to discharge this duty.

## Support to victims and witnesses

When involved in the prosecution process, a victim or witness is entitled to receive specific rights and support throughout the criminal justice process from all of the criminal justice organisations. The police service has a responsibility to let victims know about their rights within the Victims' Code which include but not limited to keeping them informed with progress through the investigation, assessing their needs and their right to access support.

Victim support services provide emotional and practical support to victims of crime. Victims who are entitled to an enhanced service also have the right to be referred to a specialist support provider if available.

Victims and witnesses whose case results in a suspect being charged have the right to access support from the Witness Service who can arrange a visit to the court prior to the trial date and provide support on the day of trial.

[\*\*Victim Support\*\*](#) provides information and counsel to victims and witnesses through services including the Support line and the Witness Services. Other services may be available in your area.

For more information see [\*\*CPS Easy Read Victims' Guides\*\*](#).

## Victim personal statement

All victims have the right to make a Victim Personal Statement (VPS) where they can explain in their own words how a crime has affected them, whether physically, emotionally, financially or in any other way. It also helps the agencies to understand the impact of the crime on the victim so that they can make informed decisions about the case.

Victims have the right to be provided with information about the VPS process, and they have the right to support in writing their VPS. The VPS should not contain the opinions of the victim, or the victim's close relatives, on what any sentence should be.

The judge or magistrate will consider the VPS when passing sentence. The parole board also considers a victim's VPS.

Under the [\*\*Code of Practice for Victims of Crime in England and Wales, November 2020\*\*](#), the victim can request to read out their VPS in court after the defendant is convicted. They can also request another person, usually the prosecutor, to read it out on their behalf or can request that it is not read aloud. The court will decide how this proceeds.

For further information see:

- [\*\*Ministry of Justice: Victim Personal Statement Guidance\*\*](#)
- [\*\*Right 7, Code of Practice for Victims of Crime in England and Wales, November 2020\*\*](#)

## **Witness care units**

Witness care units (WCUs) exist across England and Wales. Witness Care Units are predominantly police staffed units who provide information and support to victims and witnesses in cases progressing through the criminal justice system.

The units are a single point of contact for victims and witnesses, and provide support and information after charge, tailored to the needs of the victim or witness. WCUs will ensure the needs assessment of victims are updated and shared with wider criminal justice agencies. By being better supported and equipped, witnesses are more likely to feel confident and be willing to support the prosecution process. WCUs aim to achieve positive outcomes for the criminal justice system, by having fewer failed cases due to known victim issues, striving to reduce attrition, and in improving the experience for victims and witnesses.

WCUs do not affect the responsibilities placed on the police and prosecutors to keep victims updated and informed about key decisions pre-charge, as set out by the [\*\*Code of Practice for Victims of Crime \(Rights 1 – 7\)\*\*](#).

## **Responsibilities**

WCUs oversee the provision to the Crown Prosecution Service (CPS) and court, relevant documentation relating to victims and witnesses, for example, the victim personal statement. They also work closely with services that can [\*\*support victims\*\*](#).

The witness care officer (WCO) is the central point of contact in a WCU for a victim/witness, from the time an offender is charged to the end of the court case. Arrangements for managing contact should be clarified and agreed by the WCO with the officer in the case on a case-by-case basis.

The WCO:

- informs a victim/witness of trial dates
- monitors dates that victims and witnesses cannot attend court
- carries out a detailed needs assessment to identify the support needed to enable witnesses to attend court and to give their **best evidence** – this includes managing any requirement for special measures for vulnerable and intimidated witnesses

The WCO communicates the outcome of any special measures application to the victim/witness once notification is received from the Court. If help is required on the day of trial, for example, with transport to the Court the WCO help the witness to manage arrangements for this. They also update victims/witnesses of the trial outcome within timeframes defined within the Code.

For victims/witnesses in some serious cases, such as rape, domestic violence and those involving crimes against children, a specially trained police officer may be assigned as the point of contact and fulfil a similar role to that of a WCO.

For further information, see [\*\*Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures.\*\*](#)

## **Special measures for vulnerable and intimidated witnesses**

**Vulnerable and intimidated witnesses** are eligible for special measures. Victims of the most serious crimes might also be regarded as intimidated. Officers will need to decide what extra support they may require and which special measures are necessary. Different types of special measure are provided on the basis of a witness's vulnerability outlined in the needs assessment. WCO will make prosecutors aware of the special measures required.

An **application for special measures** is then made to the court by a prosecutor (or the defence). The court can also raise the question, and ultimately the court will decide on whether special measures (other support) will be provided.

For further information see [\*\*Vulnerable and Intimidated Witnesses: A Police Service Guide.\*\*](#)

### **Special measures options**

Special measures are detailed in the [\*\*Youth Justice and Criminal Evidence Act \(1999\).\*\*](#)

Victims have the right under the Victims' Code to be assessed to determine whether they are eligible and would benefit from giving evidence using special measures.

For further information see: [Victims' Guide - Support to give your evidence: 'special measures'](#)  
[| The Crown Prosecution Service.](#)

## Very young witnesses

Very young children are particularly vulnerable within the criminal justice process. They may find the process frightening and stressful and they are likely to forget details more quickly than other witnesses. Special measures may not be sufficient to enable them to give their best evidence.

In recognition of this, ACPO, the CPS and His Majesty's Court and Tribunals Service have adopted a protocol to expedite cases involving witnesses under 10 years. It applies to cases charged on or after 1 April 2015 where a witness is under 10 at the time the incident is reported to the police and that witness has provided an evidential statement or ABE interview about the incident. The child can be a witness for either the prosecution or the defence. The protocol sets out the signatories' obligations to be expeditious at all stages of the investigation and prosecution.

## Victim/witness withdrawal of support for prosecution

Victims and witnesses may withdraw support for a prosecution for a number of reasons. This could be because of a fear of reprisals, witness intimidation, anxiety caused by a forthcoming court case or because they lack support and information about an impending court case. A request to withdraw support for the prosecution might be made directly to police or via the CPS, through a statement of withdrawal of support for prosecution.

The reviewing prosecutor must apply the evidential and public interest tests to this statement of withdrawal. When considering the public interest, the consequences on the victim/witness of the decision made whether or not to prosecute should be taken into account. This includes any views expressed by the victim/witness. In assessing the statement of withdrawal, there are specific public interest considerations for the prosecutor.

In some cases an application for special measures may provide sufficient reassurance to the victim/witness for them to decide to reconsider and to support a prosecution.

However, if after receiving a request from the investigator or prosecutor a third party refuses to cooperate, the prosecutor can consider whether to make an application for a witness summons.

## Statement of withdrawal of support

This should contain:

- confirmation of whether the original statement given to the police was correct (if the account given in the original statement has to be amended, an application for this should be included)
- whether the victim has been put under pressure to withdraw or has been subjected to threats or intimidation
- nature of the original allegation (if not fully covered in a previous statement)
- the victim's reasons for withdrawing support for the prosecution
- with whom the victim has discussed the case, particularly anyone who has advised them (a solicitor, for example)
- whether any related civil proceedings have been or are likely to be instigated (this is particularly relevant in domestic serious sexual offences)
- the likely impact on the victim's life and that of other witnesses or people affected if the case continues

Statements of withdrawal of support can be used as evidence in current or future criminal proceedings, or as evidence within the family court system. These statements should be retained as information that might be relevant to future investigations.

## Witness summons

In some cases a witness summons may be necessary to compel a witness to give evidence. If this is required a summons will be issued under the [\*\*Magistrates' Courts Act 1980 s 97\*\*](#). The [\*\*Criminal Procedure Rules 2020\*\*](#) set out how to apply for a witness summons.

If a decision is made to issue a witness summons this will be done through the WCU and in consultation with the CPS lawyer.

## Victim and witness protection

The victim has a right to information, and this includes informing the victim of court hearing dates, bail and bail conditions (these need to be delivered within time frames identified in the [\*\*Code\*\*](#)).

The victim must be informed and updated by the police if a suspect is:

- arrested
- interviewed under caution
- released without charge
- released on police bail or under investigation or if bail condition are changed or cancelled
- charged

A victim also has the **right** to be informed where the police decide not to investigate, or whether there is a decision not to prosecute or to administer an out of court disposal.

All details of persons granted bail by the police or granted bail by the courts with conditions are entered onto the police national computer (PNC). Suspects failing to meet the terms of their bail are circulated on the PNC with a wanted/missing entry.

Where a remand in custody is sought, consideration must be given to whether there is a risk of the defendant trying to intimidate witnesses (directly or indirectly) while remanded in custody. If there are grounds to believe that this is likely, full details of witnesses and their contact details must be included on the case file. This information can then be passed to His Majesty's Prison Service in order to prevent the defendant from contacting witnesses while on remand.

For further information, see [\*\*Code of Practice for Victims of Crime in England and Wales, November 2020.\*\*](#)

## Compensation

Victims of a violent crime can receive compensation for physical or mental injury either through court ordered compensation or by application to the Criminal Injuries Compensation Authority (CICA). Where eligible, victims have the Right under the Code to be provided with information about compensation.

### Court award

The court may order a defendant to pay compensation for any injury, loss or damage resulting from an offence for which he or she has been convicted. The police should request that the victim provides details of any financial loss or injury. In cases where a defendant pleads guilty at the first hearing, the court may make an order based on information contained in the police summary report

(MG5).

For further information, see [\*\*Code of Practice for Victims of Crime in England and Wales, November 2020.\*\*](#)

## **Criminal Injuries Compensation Authority**

Where a victim has suffered a serious physical or mental injury as a direct result of violent crime they may be entitled to compensation through the Criminal Injuries Compensation Scheme.

The Criminal Injuries Compensation Scheme is a government funded scheme administered by the Criminal Injuries Compensation Authority ([\*\*CICA\*\*](#)). Victims have the right, where eligible, to be provided with information about how to claim compensation for any loss, damage or injury caused as a result of crime.

The Ministry of Justice produces materials to help fulfil this duty, although your force may have its own local procedures. If you are unsure please check.

Forces should be aware that often the police are the only source for some of the information which the CICA needs to verify an applicant's eligibility in terms of the rules of the Schemes. There is a protocol between the National Police Chiefs' Council (NPCC) and the CICA which set out these requirements entitled 'Compensating Victims of Violent Crime – A Working Protocol Between Criminal Injuries Compensation Authority and National Police Chiefs Council'.

Through the compensation scheme, CICA can consider claims for:

- mental or physical injury following a crime of violence (as defined by the scheme)
- sexual or physical abuse
- loss of earnings ? where the victim has no or very limited capacity to work (for more than 28 weeks) as the direct result of a criminal injury
- a fatality caused by a crime of violence, including bereavement payments, payments for loss of parental services and financial dependency, and funeral payments
- special expenses payments ? these cover certain costs incurred as a direct result of an incident, these are however limited to the expenses specified within the scheme. CICA will only consider special expenses if the victim has been unable to work or has been incapacitated to a similar extent for more than 28 weeks

Not all claims for compensation will be successful. A victim must be eligible under the rules of the scheme. The scheme is intended to be a last resort. Victims are also entitled to seek compensation through the civil courts. If they wish to do so they should seek their own legal advice. Where the opportunity exists for the victim to pursue compensation elsewhere they should do so.

The rules of the scheme and the value of the payments awarded are set by Parliament and are calculated by reference to a tariff of injuries. Although the size of the award varies to reflect the seriousness of the injury, it is acknowledged that this will never fully compensate a victim for what they may have suffered or lost.

It should be noted that vulnerable and intimidated victims are entitled to assistance in making their application. Such assistance should be provided by suitably qualified and trained personnel in the circumstances, such as independent sexual violence advisers, for example.

For further information see [\*\*Criminal Injuries Compensation\*\*](#).

#### **Investigators' responsibilities**

Investigators must not discourage a victim from making an application for criminal injuries compensation as this may affect their eligibility under the time limits.

Concerns have been raised that applications for compensation may be cited in subsequent court proceedings to undermine a victim's credibility, particularly in cases relating to allegations of sexual abuse. In all cases, however, victims have the [\*\*right\*\*](#) to be offered information about their [\*\*rights\*\*](#) and entitlements in accordance with the Victims' Code, including compensation, from their first point of contact with the relevant service provider. Victims should be advised that claims for compensation must be made as soon as possible and should not be delayed until the conclusion of an investigation or trial.

CPS prosecutors will manage any challenges in relation to compensation claims during the trial if this is raised by the defence.

Investigators should refer victims to [\*\*Victim Support\*\*](#) where they can obtain independent advice about making a claim, but cannot formally represent applicants.

For information on time limits for making applications, see [\*\*Criminal injuries compensation\*\*](#).

## **Victims and witnesses in court**

Victims and witnesses involved in an investigation may be required to attend court and provide evidence against or in defence of the accused. In court, victims and witnesses are informed and protected by staff of His Majesty's Court and Tribunals Service (HMCTS), which is an agency of the Ministry of Justice. HMCTS is responsible for the administration of criminal courts in England and Wales.

## **His Majesty's Courts and Tribunals Service**

HMCTS provides victims, witnesses and their families with separate waiting areas and court seats away from defendants and their families during the trial. They also ensure that:

- any special measures for vulnerable and intimidated victims and witnesses are maintained while in court
- the wait prior to giving evidence is no longer than two hours (see [The Witness Charter, Standard 13](#))
- an information point is provided in the court for victims to be updated on their case while it is being heard

HMCTS has specific procedural obligations towards [very young witnesses](#) at all stages of the court process.

For further information see [Justice – His Majesty's Courts and Tribunals Service \(HMCTS\)](#).

## **Tags**

Case management    Victim care