



HM Crown Prosecution
Service Inspectorate

Inspection of CPS performance in dealing with victims and witnesses in Gwent and South Wales (CPS Cymru-Wales)

April 2014



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Chief Inspector's foreword

HMCPSP is committed to promoting improvement, and this principle is embedded in all our work. This focused inspection of the CPS units in Gwent and South Wales has allowed us to examine in better detail the processes that support effective victim and witness care. Getting this right is critical because victims and witnesses are essential to the delivery of justice. Without them, offenders cannot be prosecuted or the innocent acquitted.

Following an extensive Annual Casework Examination Programme (ACEP) conducted in 2012-13 we found outcomes in relation to victims and witnesses in CPS Cymru-Wales were generally good. The file reading results were, to some degree, supported by national data outcomes. The purpose of this inspection was to delve deeper to ascertain the effectiveness of the systems, processes and partnership working in relation to victims and witnesses, capture good practice and make recommendations where necessary.

We found that there was a strong commitment to supporting victims and witnesses and this was evidenced in some good performance and outcomes. However there still remains a need for improvement in several aspects. Of particular concern is the need for CPS managers to engage more effectively and consistently with Witness Care Units.

This report makes several recommendations which we hope will make the support for victims and witnesses even stronger.



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Her Majesty's Chief Inspector

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1 Executive summary

1.1 This inspection examined the systems, structures and management of the service provided to victims and witnesses by the Crown Prosecution Service (CPS) in South Wales and Gwent. No one criminal justice agency is wholly responsible for the victim and witness process from beginning to end. This inspection focuses on the service given by the CPS whilst acknowledging the broader landscape of victim and witness services provided by other agencies. The inspection did not, therefore, examine the services provided by other agencies or wider criminal justice system national governance issues.

1.2 This inspection follows from findings in our Annual Casework Examination Programme¹ (ACEP) and national data which indicated that outcomes in relation to victims and witnesses in CPS Cymru-Wales were generally good. The purpose of the inspection was therefore to assess the effectiveness of partnership working, CPS processes, systems and quality checks and identify good practice in relation to victim and witness issues.

¹ ACEP examines the quality of CPS casework. In the year 2012-13 HMCPSP examined a total of 2,802 case files (which comprised 2,690 charged cases and 112 out of court disposals) across all CPS Areas and CPS Direct.

Findings

1.3 Performance concerning victims and witnesses in Gwent and South Wales is good: conviction rates were better than the national (England and Wales) average in 2012-13; witness attendance rates are also better than nationally in 2012-13 and have improved over 2011-12; referrals by Witness Care Units (WCUs) and the CPS to suitable support agencies is above the national figure, as is the acceptance rate by victims and witnesses; and views of victims being taken into account when deciding to discontinue cases is again better than nationally.

1.4 Letters sent to victims in compliance with the Direct Communication with Victims (DCV) guidance, when decisions are taken to withdraw, discontinue or substantially alter charges, are in the main of a satisfactory standard. The letters examined had been written by a lawyer who had been involved in the decision and therefore was the person in the best position to give a comprehensive explanation. Every letter was a full written response, as opposed to a holding reply. CPS managers have recently begun dip sampling the quality of DCV letters and giving feedback to lawyers. Compliance with timeliness is good although inspectors found some inaccurate recording which needs to be addressed. Identification of cases requiring DCV letters for vulnerable and intimidated victims is of concern, with nearly 27 per cent of victims in our sample not receiving a letter as opposed to just ten per cent in other cases.

1.5 There is a clear commitment by the CPS to inter-agency arrangements aimed at improving the experience of victims and witnesses. We found good and innovative examples of partnership working including the use of live links into court for those living in remote areas. The CPS provides comprehensive performance and other information concerning victim and witness issues which helps inform other agencies. CPS internal meetings such as the All Wales Confidence Board and external meetings like the Witness Care Unit Delivery Group provide strategic focus for victim and witness issues, although concerns exist about the lack of a robust national governance framework.

1.6 However, applications for special measures are often made at a late stage which can be a cause of anxiety for victims and witnesses and frustration for witness care officers. The process for information sharing about the necessity for special measures could be strengthened, even though once identified they are nearly always supported by the courts. In addition the special measures requested by prosecutors were appropriate in nearly 95 per cent of all applicable cases examined.

1.7 Letters sent by WCUs sometimes provide conflicting information to those from prosecutors. The means for ensuring WCUs have correct information about the progress or outcome of cases needs strengthening. Standard template letters used by the WCUs could also be improved.

1.8 The use of witness summonses is higher than the national average indicating that their use may be disproportionate. We are concerned that the default position of the Area was to summons any witnesses who indicated they would not attend court or would be reluctant to do so, rather than apply CPS policy to each individual case.

1.9 The offer of a meeting with victims or their families in appropriate instances to explain why cases have been discontinued or withdrawn was made in only half of the applicable cases examined, which is of concern. Recording of such meetings taking place was also weak.

1.10 Victim personal statements (VPSs), allowing the victim to express how the crime has affected them, need to be better monitored. Information on numbers, whether the VPS had been read to the court and whether it had any effect on the sentence, is rarely maintained. Therefore it is not possible to determine whether performance concerning this important aspect of victim care is improving or declining.

1.11 WCUs provide a vital service to victims and witnesses and their involvement can often have a positive outcome, particularly in serious cases. However the visibility of CPS managers and their relationships with the units was weak. There are recurring issues of concern that should be addressed through a more formal meeting structure and better communication channels.

Recommendations

Inspectors identified five key recommendations where improvements can be made, these are:

1 An effective process needs to be implemented to ensure that Witness Care Units are informed at the earliest opportunity of any victim and witness needs (paragraph 3.10).

2 The Area should assure itself that its practice of applying for witness summonses is compliant with national policy and best practice (paragraph 3.18).

3 The Area should undertake the following audits:

- Establish whether timeliness of DCV letters is being correctly entered onto the case management system
- Review its compliance with sending DCV letters to vulnerable and intimidated victims
- Review its compliance with offering meetings to victims or families in appropriate cases (paragraph 4.25).

4 The Area should review its systems to enable it to provide better measures and effectiveness of the victim personal statement scheme (paragraph 5.13).

5 CPS managers should introduce a regular forum with Witness Care Units to discuss issues and concerns to provide a better service to victims and witnesses (paragraph 6.10).

Good practice

1 The use of live links into court provides a safe and convenient environment for victims and witnesses who live in remote areas (paragraph 5.17).



2 Introduction and context

2.1 This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate (HMCPISI) and examines the service given by the Crown Prosecution Service to victims and witnesses in Gwent and South Wales (CPS Cymru-Wales²).

2.2 It follows from our ACEP findings and national data which indicated that outcomes in relation to victims and witnesses in CPS Cymru-Wales were generally good. The purpose of the inspection was therefore to assess the effectiveness of partnership working, CPS processes, systems and quality checks, and identify good practice in relation to victim and witness issues.

2.3 Ensuring victims and witnesses have the confidence to report a crime and give their evidence in court is clearly at the heart of a healthy, functioning criminal justice system. No one agency 'owns' the victim and witness relationship throughout the life of an offence. It is therefore important all agencies work together to provide an integrated rather than a fragmented service³. The CPS has specific duties to victims and witnesses relating to pre-charge advice, selection of charges, proper progression of cases, decisions not to continue with a case, prosecution and sentencing.

2.4 It was not intended that the inspection should focus on any particular category of victim or crime; therefore it included a broad range of cases including those that appeared in the magistrates' court and the Crown Court. It did not extend to the other agencies involved in providing services to victims and witnesses (HMCPISI does not have statutory powers to inspect these agencies) although we considered the CPS's approach to partnership issues.

Methodology

2.5 We undertook the following:

- Field visits to CPS Cymru-Wales, in particular the former CPS Areas of Gwent and South Wales
- Interviews with a range of staff including senior managers, lawyers and support staff
- A survey of Witness Care Unit staff in Gwent and South Wales
- An analysis of documentation supplied, open source documentation and a review of operational systems
- Examination of DCV letters

We assessed our findings against a standards framework. The full methodology can be found at annex A.

² In early 2010 the present CPS Cymru-Wales Area consisted of four separate Areas: South Wales; Gwent; Dyfed Powys and North Wales. These were co-terminous with the four police forces and local criminal justice boards (LCJBs). The national CPS restructuring during the latter part of 2010/early 2011 saw the amalgamation of the four separate Areas into one larger one. Consequently some functions were centralised or merged. The police forces and LCJB areas remain unchanged.

³ The new Victims' Code 2013 identifies 14 different agencies that provide services to victims: www.gov.uk/government/uploads/system/uploads/attachment_data/file/254459/code-of-practice-victims-of-crime.pdf



3 Responding to the needs of victims and witnesses

3.1 Throughout the progression of a case it is essential that all agencies involved in providing a service to victims and witnesses respond expeditiously to ensure that their needs are identified and met. Failures or shortcomings in this regard can often have a significant, and at times adverse, impact on the chances of a successful prosecution.

3.2 So, for example, the early identification of vulnerable and intimidated victims and witnesses is a key factor to ensuring that appropriate support can be provided from the point of charge to completion of the case. The Victims' Code states that all organisations with responsibilities under the Code should identify victims as vulnerable or intimidated as defined by the Code⁴.

3.3 Following identification of vulnerable or intimidated witnesses the CPS are required to assess the needs of victims, witnesses and where relevant their families. They should take into account relevant witness concerns and the consequences and risks of such concerns not being met. We found that review of victim and witness needs was inconsistent. On occasion prosecutors reviewed police files later than they should; on other occasions competing pressures on reviewing lawyers' time often meant that reviews were rushed and, subsequently, these needs were often not considered at an early stage of the process.

Special measures

3.4 As well as ensuring the accurate identification of vulnerable or intimidated people, it is important for prosecutors to understand whether special measures, to enable witnesses to give the best evidence they can, are suitable in any particular case⁵.

3.5 The Victims' Code places responsibility on the CPS to have systems in place to assist prosecutors consider whether or not to make an application to the court for a special measures direction. Early discussion with the police regarding a victim's or witness's needs can help to improve case progression and provide a level of reassurance for both victims and witnesses⁶.

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- 5 These include video recorded evidence in chief, a live link, screens around the witness box, evidence given in private, evidence given via a remote link, removal of wigs and gowns by those in the court room, video recorded cross-examination, examination of the witness through an intermediary and aids for communication through a communicator or interpreter.
 - 6 Discussion about whether special measures are necessary can be made as early as the charging stage. CPS Direct (CPSD) now handle most of the Area's charging decisions. It was not within the scope of this inspection to assess the quality of CPSD's charging decisions. Whether or not CPSD highlights the need for special measures at the charging stage this should always be reviewed by the Area lawyer.

⁴ Vulnerable witnesses are defined as children and young people under 17 years of age and those who suffer from a physical or mental incapacity. Intimidated witnesses are those who are in fear or distress about giving evidence, which may reduce the quality of that evidence - for example victims of sexual or domestic violence.

3.6 In our 2012-13 ACEP file examination checks we looked at whether the most appropriate special measures had been requested in each case. Of the eight cases in Gwent where this was applicable, all the appropriate special measures had been requested (100 per cent) and in 18 of the 19 South Wales cases (94.7 per cent). The combined South Wales and Gwent results of 96.3 per cent compare favourably to national (England and Wales) ACEP results of 93.1 per cent, although are slightly worse than the combined all Area (CPS Cymru-Wales) results (97.8).

3.7 Although the special measures applied for were appropriate in most cases, we found that applications were often being made at a late stage. There are various reasons for this, including non-availability of a CPS reviewing lawyer to enable early consideration of the case, which then leads to a late identification that special measures are required. Therefore WCUs⁷, which are key to ensuring victims and witnesses are informed about what is going on, are sometimes only able to undertake their assessments late in the process. In addition, there is no flag or trigger on the CPS case management system (CMS) to indicate that special measures are required; this often means that the WCUs cannot tell from the system if they have been applied for. In interviews with WCU staff we learned that they are often not aware until they are asked by victims and witnesses whether special measures have been arranged for them in court.

3.8 Occasionally WCU staff may pick this information up from the list of witnesses attending court form (LWAC), but often there is no further explanation on the form to say what the requested special measure is.

3.9 Where special measures applications are identified late, this often means tasking the police with obtaining a statement from the victim or witness explaining why they feel particular measures are needed. Whilst CMS allows for communications between the CPS and witness care officers to advise that such actions are outstanding, this is not always used. This can then add further delay to requests being laid before the court. WCUs reported that these delays cause great stress and anxiety to victims and witnesses, who quite often become reluctant to attend court. However in the main, once special measures are identified and requested, most are supported by the courts.

3.10 The CPS uses Core Quality Standards Monitoring (CQSM) checks to assure itself on matters such as the timeliness and quality of needs assessments, VPSs, special measures etc. Unfortunately these are only considered as part of the overall quality assurance around casework and there are few assessments or audits on specific matters other than the recent introduction of quality assurance for DCV letters (see chapter 4).

Recommendation

An effective process needs to be implemented to ensure that Witness Care Units are informed at the earliest opportunity of any victim and witness needs.

⁷ Witness care units in Gwent and Wales comprise a mix of police civilian and CPS support staff. Their role is explained at paragraph 6.8.

Communication with victims and witnesses⁸

3.11 On the whole, victims and witnesses are able to indicate the method of communication they prefer. In the main this is still by letter; however email is becoming more popular. Additionally, victims and witnesses have the option of receiving some information in Welsh or contacting a CPS staff member who speaks Welsh.

3.12 Our inspection revealed that in general victims received information about the progress of their case including, where appropriate, details of defendants' bail conditions and trial dates. However, the late review by prosecutors of some files and late receipt of relevant information within the WCU has a detrimental impact on the timeliness of communications.

3.13 We were informed that letters sent out by prosecutors and WCUs sometimes provided conflicting or differing information about case progress or outcomes. It is essential that the WCU have the most up to date information to hand when they communicate with victims and witnesses. There are some problems with data transfer that migrates from CMS to the CPS witness management system (WMS). There is an expectation that WCU staff should access CPS systems for the information they require. However, it is apparent that the majority of WCU staff in Gwent and South Wales do not have access to either the CPS or police systems. Therefore WCU staff have to rely on the one or two of their colleagues who have such access, or make contact with the CPS progression team for the information they require.

3.14 Templates for victim and witness letters are in significant need of review; those which WCU staff use are particularly poor. It was apparent that the current WCU letters have to be significantly altered and it is often easier to delete the majority of standard text and rewrite the letter. The Area is making attempts at updating some template letters, however progress is slow. It is our view that this is an issue which should be dealt with nationally to ensure all WCUs are using nationally agreed templates, where appropriate⁹.

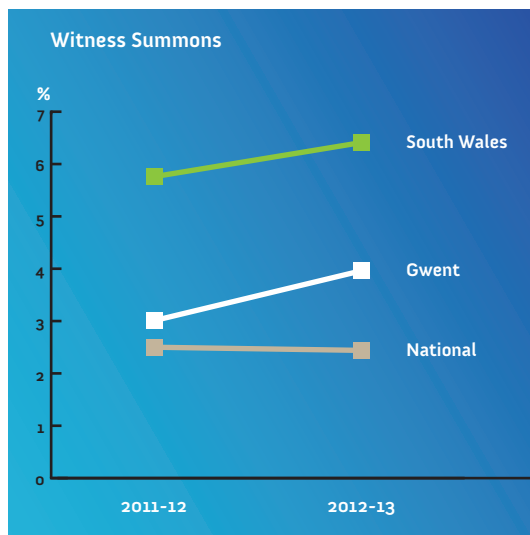
Use of witness summons

3.15 There are a high percentage of domestic violence (DV) cases as a proportion of caseload in CPS Cymru-Wales. This is particularly apparent in Gwent, which has the highest percentage in England and Wales. South Wales however are in line with the national average. We were informed that the high numbers of DV cases led to a significant number of victims retracting their statements or not wishing to attend court, which has a consequence of increased numbers of witness summonses¹⁰ being applied for within the Area. The use of witness summonses nationally fell from 2.50 per cent in 2011-12 to 2.44 per cent in 2012-13. However in Gwent and South Wales their use is higher than the national average and rising. In Gwent summonses rose from 3.01 per cent in 2011-12 to 3.96 per cent in 2012-13 and in South Wales from 5.76 per cent in 2011-12, more than twice the national average, to almost three times the national figure in 2012-13 at 6.41.

⁸ Direct communication with victims when a case no longer proceeds is dealt with in chapter 4.

⁹ Revised templates have been prepared and it is anticipated that these will be available on WMS in April 2014.

¹⁰ A witness summons is an order from the court for the witness to attend on a specific date and time. The summons can be applied for by the CPS when it becomes clear a witness will not give evidence and their evidence is integral to the case.



3.16 Interviews with Area prosecutors and witness care officers indicate that lawyers have been instructed to proceed with a witness summons where a victim is refusing to attend court. Cymru-Wales's policy is that a risk assessment should be undertaken before a summons is applied for but we were informed that this rarely happens. The Area indicated that the majority of cases where the victim is reluctant to attend court involve DV. In South Wales the percentage of DV cases as a percentage of all cases is in line with national figures whereas in Gwent the proportion is considerably higher. This indicates a disproportionate use of summonses in South Wales.

3.17 The CPS's domestic violence policy and legal guidance make it clear that applying for a witness summons should be a last resort and that it should only be considered if: the victim will not give evidence, even with the help of special measures and other support; the case cannot proceed without the participation of the victim; and the safety of the victim and any children will not be jeopardised by the case continuing. There were concerns from CPS and WCU staff that the default position of the Area was to summons any witness who indicated that they would not attend court. We share these concerns. We also feel that late review of cases and late application of special measures could contribute to the reluctance of witnesses to attend court and increases the likelihood of (or threat of) a witness summons becoming necessary. This combination of factors could alienate an otherwise willing witness.

3.18 Although the conviction rates in Gwent and South Wales were better than the national average in 2012-13, there is no direct evidence to suggest that a robust policy of issuing witness summonses contributes significantly to this performance. Use of summonses in these sensitive cases can be controversial, albeit justifiable in appropriate circumstances. We are concerned that a blanket policy of applying for summonses in these cases ignores the need to look at each case carefully.

Recommendation

The Area should assure itself that its practice of applying for witness summonses is compliant with national policy and best practice.

4 Informing victims when a case no longer proceeds

4.1 The CPS's stated policy is that the Service is required to explain to the victims of crime its decisions to drop or substantially alter the charges against an offender. The CPS's DCV guidance requires a letter to be sent within one working day of the decision in cases with a victim regarded as vulnerable or intimidated and within five working days to other victims.

4.2 The CPS may contact a victim to explain a decision either by phone, sending a holding letter whilst a full explanatory letter is drafted, or by sending a full letter in the first instance. In some circumstances a conversation with a victim at court negates the need for a DCV letter so long as the victim has stated that a letter is not required.

Quality of DCV letters

4.3 We examined a total of 60 cases where it was appropriate to send a DCV letter. These comprised 18 Crown Court unit and 12 magistrates' court unit files each from both South Wales and Gwent. The file sample was taken from cases flagged as having an identified victim from August 2012 to July 2013 and included 29 files in which the victim had been flagged as vulnerable or intimidated.

4.4 The letters examined were, overall, of a satisfactory standard and complied in most respects with the national DCV guidance issued by the CPS. The majority set out clearly the reason for the decision to substantially alter or drop charges and most were in plain language and free from legal jargon. Whilst standard paragraphs were found in most, they were used appropriately and the text was otherwise

tailored to the circumstances of the case, so most letters did not give the appearance of being formulaic. Each one examined was a full written response rather than a holding letter followed by a full response. We considered this good consistent practice, in accordance with guidelines and without adversely affecting timeliness.

4.5 The Area performed better in providing an adequate explanation of the reason to stop the case than was found in the HMCSI audit report of 2009¹¹. This had been provided in 94.0 per cent of the letters seen in Cymru-Wales compared to 88.7 per cent in our audit.

4.6 The letters had been written by a lawyer in all but one case. Most often the letter was written by the lawyer making the decision to drop or substantially alter a charge and was drafted at the time the decision was made. Where the decision had been taken in court, it was more often a lawyer in the CPS office who drafted the letter after the file had been returned to the office, rather than the lawyer who had been in court. In some of these cases, the lawyer in the office had approved the decision to drop or alter a charge in court. This meant that the majority of letters were written by the person who was involved in the decision and was in a position to give a good explanation of the reasons. This will have contributed to the good standard of the letters seen, which were customised to the circumstances of the case and were not merely a series of standard paragraphs.

¹¹ A follow-up audit report of Crown Prosecution Service performance in relation to keeping victims informed (October 2009).

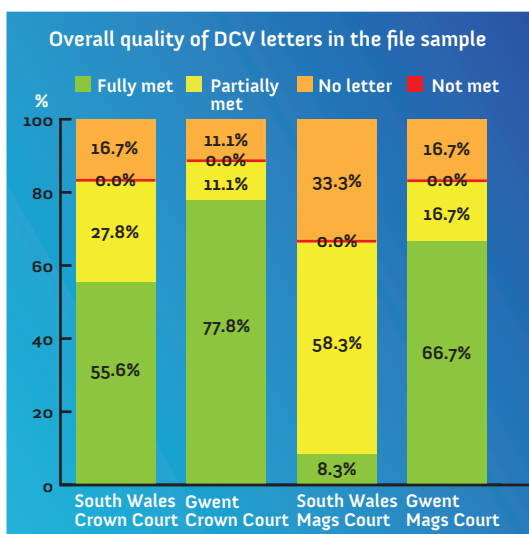
4.7 In those cases where the CPS had received further information from the victim which had often influenced or prompted the decision to drop or alter charges, reference had been made to this in the letter. This complies with the DCV guidance and provides confirmation to the victim that their views have been taken into consideration.

4.8 The standard paragraphs most often used were those explaining the role of the CPS and the application of the Code for Crown Prosecutors. These were appropriate in all the letters seen other than in one where the victim was a police officer. The other standard paragraphs commonly found were those used to express empathy with the victim. In some cases the choice did not adequately reflect the appropriate level of empathy. In others both standard paragraphs for expressing empathy were used which made for repetition. However, some level of empathy was expressed in 89.6 per cent of the letters seen which compares to the 90.6 per cent seen in our 2009 audit report.

4.9 The quality of DCV letters is an aspect of performance that the Area has recently undertaken to monitor more closely. Unit Heads have begun to dip sample them and give feedback to lawyers in an effort to improve quality. A majority of letters quality assured were given a satisfactory rating by managers, although our assessment indicated a broader range of quality¹².

4.10 Local Hate Crime Scrutiny Panels also examine any DCV letters on the cases they look at. This gives the Area a useful perspective from those outside the criminal justice system. This feedback, combined with the information provided from the Unit Head monitoring, provides the opportunity for the Area to learn how to target improvements in the quality of letters sent out to victims. There is also evidence that the panel review process has an influence on the standard of letters because lawyers were made aware that their cases may be subject to this external scrutiny.

4.11 The quality of letters seen from Gwent was better than those seen from South Wales. The reasons letters were assessed as not fully meeting the standard expected included the absence of the standard paragraph drafted with the future safety of the victims of domestic violence in mind and also failing to include sources of support for these victims. Other issues included lack of empathy, the use of legal terms that were not fully explained and letters which did not take into account the full circumstances of the particular case.



¹² We did not examine the same DCV letters that Unit Heads had.

4.12 A standard paragraph which would usually be added in letters to DV victims to encourage them to report any further incidents was missing in seven of the 18 cases in which it was relevant. All those cases missing this paragraph were from South Wales. Also three cases of DV from one magistrates’ court unit in South Wales had no DCV letters when the cases were discontinued. In two cases the hearing record sheet stated the victim had been spoken to at court though there was no note of what was discussed or confirmation that the victim had indicated they did not require a letter. In the third there was no explanation as to why a letter was not sent. These omissions need to be addressed by the Area to ensure greater compliance with national guidance.

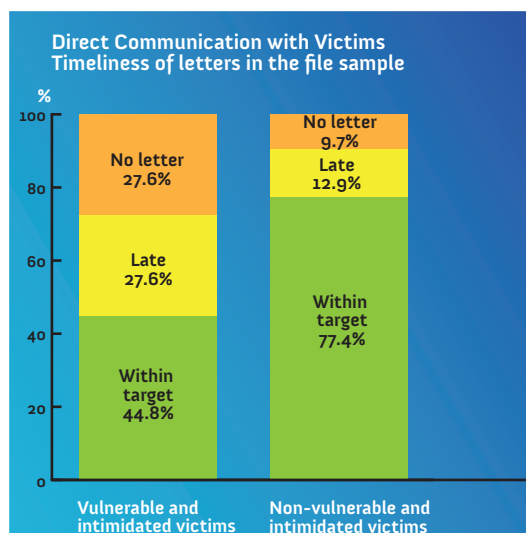
4.13 With the exception of DV cases, letters did not contain information for appropriate support agencies. Even in this type of case they did not always include information or contact details for sources of support. In 11 of the 18 DV cases no reference was given for a source of support. The Area should ensure that contact numbers for relevant support agencies are included.

4.14 Overall presentation of letters was good in all but eight cases. Issues included the inconsistent use of different fonts in the body of the letter and typographical errors. This may, at first glance, not appear to be significant, but lack of attention to detail can detract the reader (the victim) from the message and give the (wrong) impression that the case is not being given the care it deserves. However, all the letters were typed on CPS headed notepaper and had been headed “Private” in accordance with guidelines. The Area’s quality assurance monitoring should take into account that issues with the presentation of letters are identified and appropriate action taken.

Compliance with timeliness for DCV letters

4.15 This is an aspect of performance that Cymru-Wales has focused on and the file sample shows that in some aspects it has achieved a good level of compliance. There was an issue around accurate recording on CMS in one unit. However, in comparison to the sample of files examined as part of ACEP in 2012, the performance of South Wales had improved whilst Gwent’s had declined. In this inspection the timeliness for South Wales was found to be 85.7 per cent compared with 82.0 per cent in 2012; conversely, in Gwent performance dropped from 87.0 per cent in 2012 to 73.0 per cent.

4.16 In 32 of the 60 cases examined, the DCV letter had been sent on the day the decision was made or the day after. Performance was better when sending a letter within one day of the decision in those cases where it is not mandatory to do so. It is our view that the practice of the lawyer who made the decision to drop or substantially alter the charges drafting a DCV letter at the time of the decision contributes to ensuring that letters are sent out within the target date.



4.17 There were 29 cases in the sample that had been flagged as involving a vulnerable or intimidated victim. Of these 13 (44.8 per cent) had been sent within one working day of the decision in accordance with the target. In eight cases (27.6 per cent) the letters had been sent late ranging from one day after the target to 24 working days after the decision. In the remaining eight (27.6 per cent) cases, no letter had been sent. In one it had been noted on CMS that the victim had been spoken to at court but in others there was no explanation of why a letter had not been sent.

4.18 Performance in the remaining cases that did not involve a vulnerable or intimidated victim was much better. In 24 (77.4 per cent) the letter was sent within the five day target and in 19 it was sent on the day or the day after the decision was made. Four were sent out late and in three cases there was no DCV letter on CMS.

4.19 Whilst the timeliness of letters in most cases had been correctly recorded on CMS, there were ten inaccurately recorded, showing that letters had been sent out sooner than they actually had been. One unit in particular was responsible for the bulk of this inaccurate recording which the Area needs to address through a proper audit.

Identification of cases requiring a DCV letter

4.20 In the file sample there were 11 cases out of 60 (18.3 per cent) in which a letter was not sent after there had been a substantial alteration to the charges or they were dropped. This compares well to the 27.1 per cent found in our 2009 report. In six of the 11 there was no explanation on CMS as to why it was not necessary to send a letter to the victim.

4.21 As the DCV letters were routinely drafted by the lawyer making the decision to drop or substantially alter the charges at the time the decision was made, there was a reduced chance that the need for a letter would be overlooked. However, performance in relation to vulnerable and intimidated victims is of concern. The national 2009 report found letters had not been sent to this category of victim in 19.0 per cent of files. In this review 27.6 per cent of vulnerable and intimidated victims were not sent a letter. This is of concern as it appears that these particularly vulnerable victims are not receiving an explanation for the decision. In cases where the victim was not considered vulnerable or intimidated, there were only three (9.7 per cent) where letters were not found. The Area needs to address this issue and ensure that a letter is provided to vulnerable and intimidated victims or the reason one has not been sent is recorded.

Offering meetings to explain the decision to victims

4.22 In particular types of case¹³, the CPS should offer to meet with the victim or their family to further explain the reason for the decision to substantially alter a charge or to take a case no further. A meeting may also be offered, at the discretion of the prosecutor, in other types of cases if it is felt appropriate.

4.23 A sample of 20 files was examined in which the offer of a meeting should have been made. Only nine cases contained one. Of the remainder, no offer was made in the letter in eight cases and there were three cases in which a DCV letter could not be found. The performance of South Wales in this aspect was noticeably worse than Gwent's. South Wales had only offered a meeting in two of the eight letters seen. Performance overall in respect of a meeting being offered (52.9 per cent of appropriate cases) is worse than results of the 2009 report, which found that on average meetings were offered in 58.3 per cent of relevant DCV cases. The Area should ensure that a meeting is offered to a victim or the victim's family in all relevant cases.

¹³ A meeting should be offered in cases involving a death; child abuse; sexual offences; racially or religiously aggravated offences; cases involving a crime against an older person; cases with a homophobic/transphobic element or offences aggravated by hostility based on the victim's disability.

4.24 In seven of the nine letters in which a meeting was offered, the purpose of the meeting had been outlined to ensure that the victim was aware that the decision to alter charges or drop the case could not be altered and that the meeting was a chance for the victim to gain a fuller explanation/understanding of why the decision had been made. However, there was no record on CMS of a meeting taking place with the victim in any of the cases examined. We were told that meetings are not normally recorded on CMS but lawyers are expected to keep a record. If meetings are taking place this should be recorded on the victim's code screen in CMS and notes of the meeting saved onto the system.

4.25 Meetings may be offered to victims in cases other than those types where it is mandatory if felt appropriate. This was found in one DV case, though there was no explanation of why it was considered appropriate and there was nothing on the file to indicate the offer had been taken up.

Recommendation

The Area should undertake the following audits:

- Establish whether timeliness of DCV letters is being correctly entered onto the case management system
- Review its compliance with sending DCV letters to vulnerable and intimidated victims
- Review its compliance with offering meetings to victims or families in appropriate cases

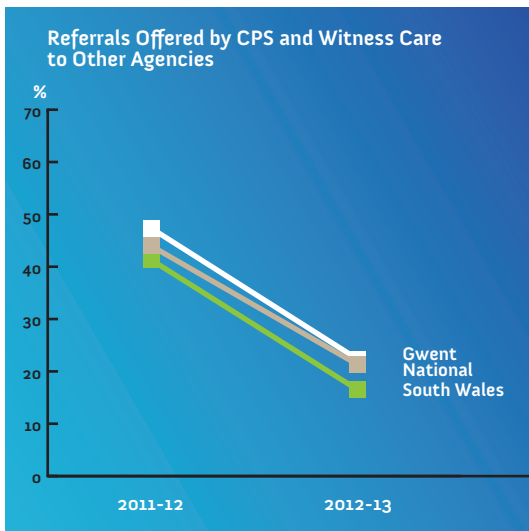


5 Support for victims and witnesses at court

5.1 Our inspection found that on the whole victims and witnesses were given appropriate information - mainly from the WCUs - including support available to them, giving evidence in court and, more generally, information on the court process. The WCU is responsible for referring vulnerable and intimidated victims or witnesses to the appropriate support agencies who can best assist them with their needs. More often than not most were referred to the Victim Support and Witness Service agency. The system works particularly well in Gwent where a Witness Service member of staff shares an office with the WCU. This means any issues which arise in relation to support can be dealt with more swiftly.

5.2 The number of referrals offered by the CPS and WCUs to Victim Support and the Witness Service has fallen significantly from 2011-12 to 2012-13. Nationally the fall was from 43.98 per cent to 21.27, in Gwent 47.36 per cent to 22.31 and in South Wales 41.32 per cent to 16.46.

5.3 Although the number of referrals has reduced in 2012-13 in comparison with 2011-12, the percentage accepted as a percentage of those offered has significantly increased, indicating a better focussed use of referral.



The Prosecutors' Pledge

5.4 The Prosecutors' Pledge¹⁴, introduced in 2005, is a ten point pledge for all prosecutors (not just those from the CPS) which describes the level of service that victims can expect from prosecutors. There are a number of factors in relation to the Pledge which CPS prosecutors should consider when dealing with victims and witnesses. These include: seeking a victim's view when considering a plea; informing the victim where a charge is withdrawn, discontinued or substantially altered (covered in chapter 4); assessing needs (special measures); and keeping victims informed.

5.5 In our 2012 ACEP we examined Gwent and South Wales files to establish if the Victims' Code, Prosecutors' Pledge and other policy guidance on the treatment of witnesses was complied with. Of the 42 cases in Gwent where this was applicable, 41 of 42 cases (97.6 per cent) fully met the policy and guidance, with only one failing to meet the standard. In South Wales 91 of 94 cases (96.8 per cent) fully met the standard and the remaining three partially did.

5.6 The file examination considered whether the victim's views had been taken into account when deciding to discontinue one or more charges, acceptance of a lesser offence or accepting a plea of guilty based on a version of events which may not be consistent with that of the victim. Of the six applicable cases in

Gwent, five (83.3 per cent) had taken the views of the victim into account. In South Wales there were 18 applicable cases and of these 70.0 per cent of victims were asked for their views. Both Gwent and South Wales performed significantly better than the average performance of CPS Cymru-Wales (58.3 per cent) and England and Wales combined (42.5 per cent).

5.7 Another factor in the Pledge is to promote communication at court. This includes keeping victims informed of case progress, assisting them at court to refresh their memory from their written or video statement, and answering questions on court procedure and processes. We did not conduct court observations during this inspection but were informed that, whilst victims and witnesses were on occasions greeted by prosecutors when attending court, in Gwent and South Wales this was more likely to be done by the caseworker where one was available. However, as would be expected, more often than not it was the Witness Service officers who had most contact with victims and witnesses at court, provided information and kept them updated.

5.8 The fragmentation of assistance provided to the witness at court is of particular concern and the Area should assure itself that an effective and integrated process exists for victims and witnesses when attending court.

¹⁴ The Prosecutors' Pledge is a CPS public policy statement on the delivery of services to victims. www.cps.gov.uk/news/articles/prosecutor_pledge211005/index.html

Victim personal statement

5.9 Victims of crime should be offered the opportunity to provide a victim personal statement about how the crime has affected them and these should be raised in court by the prosecutor, together with any compensation considerations. At the beginning of this process the police should consider including a VPS in the victim's original statement. However if one has not been taken initially there remains a continuing duty to establish if a VPS is required in the case, because the effects of the crime may only affect the victim at a later stage. Evidence from our interviews with CPS and witness care staff revealed that there were no examples of the CPS requesting the police to obtain a VPS where it had not been included in a victim's statement(s). Because there is no requirement, or facility, to capture such information it is not possible to establish what requests the CPS make to police to obtain a VPS, or whether one has been declined by the victim.

5.10 Although records of VPS numbers were previously recorded, this information is no longer maintained because there is no mandatory field on CMS to record whether one has been taken. It is therefore difficult to assess whether a relevant statement has been obtained in any particular case. The Area were also unable to provide any measurement of the various stages of a victim personal statement, including: whether one was being considered by the police; if police had not obtained a VPS whether there was any consideration given by the CPS to seek one; recording that a statement had been taken; and recording if a VPS had actually been read out in court.

5.11 WCUs also report that they find it frustrating that they are unable to provide victims any assurances as to whether their VPS will be or has been read out by the CPS prosecutor in court, or whether it had any influence on sentencing. The taking of a victim personal statement and it being read to the court in the presence of the accused can often be empowering, by giving victims a voice. It is important therefore that there is a means of verifying whether this has been done.

5.12 The Victim Support¹⁵ report *Summing up; a strategic audit of the criminal justice system*, published in 2011, highlighted Gwent and South Wales as having one of the worst levels of VPS offers. Only one in three victims was given this opportunity. Current Area arrangements do not make it possible to determine whether this situation has improved or worsened.

5.13 Whilst some of these weaknesses should be addressed at a national level, we are concerned that the Area lacked any audit or quality assurance processes concerning this important issue.

Recommendation

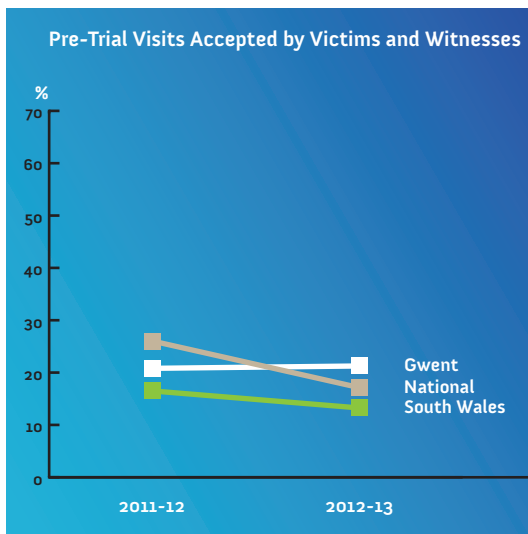
The Area should review its systems to enable it to provide better measures and effectiveness of the victim personal statement scheme.

5.14 Despite the weaknesses around the VPS scheme our ACEP file examination in 2012 revealed that, where appropriate, orders sought at sentencing to address the needs of the victim such as compensation, restraining orders etc had been made in all of the applicable cases examined.

¹⁵ www.victimsupport.org.uk

The Witness Service

5.15 The Victim Support and Witness Service officers in Gwent and South Wales provide a valuable service such as providing the statement at court to the witnesses, looking after the video links used for special measures, and arranging pre-trial visits for victims and witnesses. During 2011-12 the number of pre-trial visits accepted was below the national average (26.02 per cent) with Gwent being 20.81 per cent and South Wales significantly lower at 16.49. Whilst Gwent has improved slightly in 2012-13 (21.26 per cent), both South Wales and national figures have fallen, to 13.24 and 17.13 respectively.



Court facilities

5.16 Facilities at court vary for victims and witnesses. From Cardiff Crown Court, which is particularly good with a 'front room' atmosphere, to the Youth Court at Cardiff where the number of rooms has reduced, meaning that youths now have to share a room with adults. Although treatment of victims and witnesses at court on the whole is good, we were informed through interviews with the WCU and Victim Support that there still remain a few poor examples, such as victims and witnesses being left at the court all day or cases being transferred to an alternative court building with less than 24 hours' notice. This is particularly problematic in Wales due to the geographical distance between courts.

5.17 The Area supports a joint partnership facility whereby witnesses give their evidence via live link to the court from premises located remotely. This provides a safe environment and saves witnesses from long journeys to court. Victim Support manages the building, provides statements and administers oaths, while prosecutors speak with the witness prior to the start of the case over the video link if needed.

Good practice

The use of live links into court provides a safe and convenient environment for victims and witnesses who live in remote areas.

6 Performance and partnership arrangements

6.1 CPS Cymru-Wales is involved in a variety of inter-agency arrangements and meetings aimed at improving the experience of victims and witnesses within the criminal justice system. These include Victim Support, Her Majesty's Courts and Tribunals Service (HMCTS), the police, local authorities and the Welsh Assembly. Various memoranda of understanding or protocols have been agreed between agencies including the handling of victims and witnesses in specialist cases and protecting NHS staff against violence.

6.2 Significant work has recently taken place in cases where a victim or witness has particular needs as a result of mental health issues. The Area has identified a number of intermediaries for such cases and provided training to prosecutors on things to be aware of. One example is that certain medication can make witnesses lethargic and less coherent in the morning, so they can be called to give evidence in the afternoon instead.

6.3 The CPS is also helping to lead a partnership approach to human trafficking¹⁶ which has involved participation by decision-makers from statutory and non-statutory organisations and from the voluntary sector. The aims are to provide an evidence base on the scale of the problem, share good practice and develop a 'victim care pathway' aimed at providing the best possible support for victims.

6.4 Since the demise of the Office of Criminal Justice Reform (OCJR), the abolishing of nationally agreed targets and the withdrawing of central funding for local criminal justice boards (LCJBs), many CPS Areas and their partners have struggled to put in place robust mechanisms to measure and assure joint performance around victim and witness issues. Gwent and South Wales have managed to continue to operate their LCJBs and, although there are not any victim and witness sub-groups, these issues continue to be discussed at the All Wales Criminal Justice Board. Whilst it is clear that all agencies are committed to improving the service to victims and witnesses, concerns have been expressed by the CPS and partners that overall governance structures in Wales are fragmented and lack strategic direction nationally.

6.5 The Area's Witness Care Unit Delivery Group seeks to address these concerns by bringing together the CPS, police, WCU, HMCTS, Witness Service and probation, and meets on a quarterly basis. The Group's primary role is to support the WCU in delivering support to victims and witnesses and monitoring compliance with the Victims' Code and Witness Charter. The meeting is chaired by a CPS representative who is also the Area's Victims Champion. The Group examines performance, training issues, raising awareness, projects and activities, and emerging risks and issues. Victim Support also holds regular meetings with police and the CPS to discuss similar but more operational matters.

¹⁶ Human trafficking is widely acknowledged to be under reported and often a 'hidden crime'. It includes sexual, child and labour exploitation, domestic servitude and human tissue/organ harvesting.

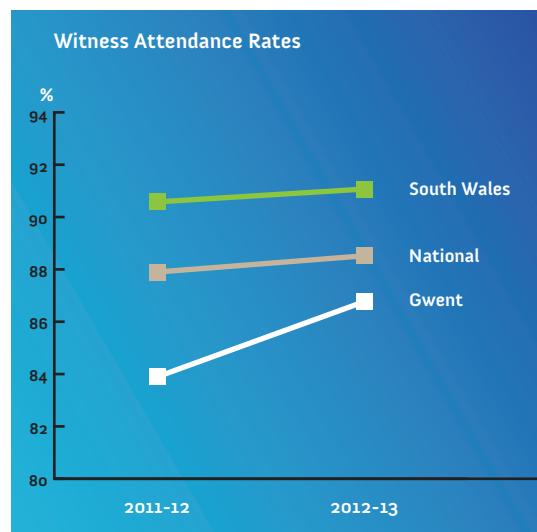
6.6 The CPS has a number of measures aimed at assessing its delivery of victim and witness issues. The primary one being the successful outcome of cases. Both South Wales and Gwent are able to produce detailed performance data for the various partnership meetings which, combined with performance results from other agencies, form a comprehensive suite of victim and witness data. However, without centrally driven performance measures to assess the impact of partnership working, it is difficult to evaluate whether partners are working together effectively and efficiently.

6.7 CPS Cymru-Wales has also initiated a Confidence Board, chaired by the Chief Crown Prosecutor (CCP), which is attended by senior CPS staff. The Board discusses a wide range of victim and community issues including: violence against women and girls; disability hate crime; Victims' Right to Review; Direct Communication with Victims; feedback from local scrutiny panels; community and other victim related issues. Actions are raised by the CCP at this forum and followed up at subsequent meetings. The forum is a good way of assessing victim issues across Wales and capturing good practice for dissemination.

Witness Care Units

6.8 WCUs in South Wales and Gwent have a mix of police and CPS staff. The units provide a vital link for witnesses and victims who are required to give evidence in cases brought by the CPS. The purpose of the support provided by WCUs is not only to improve the experience of witnesses but also to improve the level of witness attendance at court, consequently reducing the number of ineffective and cracked trials. Witness attendance rates in South Wales and Gwent have improved in the period of 2012-13.

6.9 It is clear that the work by the WCU is not merely to warn witnesses to attend court. Often, particularly in serious cases, the involvement and dedication of WCU staff can have a positive outcome on the case, which is not always recognised. The case study below, which is not typical, is an illustration of how the work of the WCU and individual witness care officers can have a significant impact on case outcomes.



6.10 Interviews and surveys of WCU staff overwhelmingly indicate that they feel isolated from the local CPS offices and that there is a disconnect between them and lawyers. Visibility of local senior CPS staff and meetings to discuss victim and witness issues are rare. There is frustration that late reviews by the CPS put pressure on WCUs to keep victims and witnesses updated without full knowledge of the status of the prosecution, including whether special measures have been granted and

whether witnesses are required to attend court. We were informed of many issues that should have been resolved quickly with the CPS and that some concerns were recurring issues.

Recommendation

CPS managers should introduce a regular forum with Witness Care Units to discuss issues and concerns to provide a better service to victims and witnesses.

Case study

Two defendants were charged with murder and attempted murder. The case was complex and involved many witnesses. At the conclusion of the 20 week trial the two defendants received life imprisonment.

The witness care officer (WCO) assigned to the case became the single point of contact for victims and witnesses for the duration of the case, ensuring they were kept informed about its progress via their preferred means of contact, updating them with the outcome at its conclusion, and thanking them for their time and contribution.

In total the WCO dealt with 313 civilian, professional and police witnesses, undertaking detailed needs assessments for each of the civilian witnesses, ensuring the right level of support was provided. However various challenges also impinged on the case including:

- Two trial dates aborted due to difficulties with jurors and defence solicitors
- Venue change from Cardiff Crown Court to Swansea Crown Court
- Travel and accommodation had to be arranged for witnesses travelling long distance to attend court
- Necessary provisions for child witnesses to attend
- Special measures to protect witness identities due to the nature of charges against the defendants
- Many of the witnesses needed extra support and reassurance as they were fearful of revenge attacks
- Assisted the police major crime unit to re-house one key witness, ensuring the witness was given extra support and reassurance
- Tracking witnesses with no fixed abode
- Producing witnesses from prison

Throughout the case, the WCO had to forge and maintain excellent working relationships with the police senior investigating officer, police family liaison officers and CPS caseworkers, ensuring witnesses (including from the police) were updated both verbally and via written communication after every hearing and at regular intervals.



Annexes

A Methodology

The overall purpose of the inspection was twofold:

- 1 To assess the effectiveness of partnership working and CPS processes, systems and quality checks involved in improving victim and witness experiences within the criminal justice system in Gwent and South Wales.
- 2 To identify good practice for wider dissemination within the CPS.

We did not inspect other agencies but considered their views on a partnership approach to victim and witness issues and collated their views on the participation of the CPS in the overall victim and witness experience within the criminal justice process. An examination of the national governance framework did not form part of this review but comments are captured where appropriate. Because most pre-charge decisions are now taken by CPS Direct, and not by the CPS Area itself, we only evaluated the case progression of victim and witness issues after charge. Our main objectives were to evaluate:

- The quality and timeliness of DCV letters
- The effectiveness of identifying and flagging victims requiring a DCV letter
- Whether the Victims' Code, Prosecutors' Pledge and any other policy guidance on the treatments of witnesses was complied with
- Whether the right special measures were sought by the prosecution
- If the views of the victim were taken into account when deciding to discontinue one or more charges, accept a lesser plea or substantially reduce a charge

- The use of victim personal statements
- Whether appropriate orders are sought at sentencing
- Whether meetings were offered to victims or their families in appropriate cases
- The management infrastructure, internally and externally, to support victim and witness issues

Specific methodology

The inspection undertook field visits to various CPS/WCU offices within South Wales and Gwent. We conducted interviews with a wide range of staff including senior managers, lawyers and support staff. We also interviewed a wide range of witness care staff and managers.

We developed a questionnaire which was sent to all police staff witness care officers asking for their views on a range of issues.

We examined 60 letters sent out to victims in compliance with the Direct Communication with Victims scheme and looked at the timeliness and processes around the DCV system. A further 20 applicable files were examined where the CPS should have met with the victim or bereaved family members.

We examined 50 case files from South Wales which were part of our ACEP for 2013.

We conducted interviews with the police and Victim Support.

We undertook an analysis of all documentation and reviewed operational systems.



B Glossary

ACEP

Annual Casework Examination Programme, conducted by HMCPSI on CPS casework.

Case management system (CMS)

IT system for case tracking and case management used by the CPS. Through links with police systems CMS receives electronic case material. Such material is intended to progressively replace paper files as part of the T3 implementation.

Code for Crown Prosecutors (the Code)

The public document that sets out the framework for prosecution decision-making. Crown prosecutors have the Director of Public Prosecutions' power to determine cases delegated to them, but must exercise them in accordance with the Code and its two stage test - the evidential and the public interest stages. Cases should only proceed if, firstly, there is sufficient evidence to provide a realistic prospect of conviction and, secondly, if the prosecution is required in the public interest.

Code of Practice for Victims (Victims' Code)

This was introduced in April 2006; it sets out the minimum level of service to victims and imposes obligations on 11 organisations including the police, CPS, courts, youth offending teams, probation service and prisons. The Code also requires an enhanced level of service to victims and witnesses who are vulnerable or intimidated. LCJBs were responsible for reporting progress to OCJR as was. In many cases the delivery of No Witness No Justice requirements and those contained in the Code have been run together.

Core Quality Standards (CQS)

Standards which set out the quality of service that the public are entitled to expect. The standards reflect legal and professional obligations.

Core Quality Standards Monitoring (CQSM)

A system of internal monitoring against the standards, whereby each Area undertakes an examination of a sample of completed cases to assess compliance.

CPS Direct (CPSD)

This is a scheme to support Areas' decision-making under the charging scheme. Lawyers are available on a single national telephone number out of normal office hours so that advice can be obtained at any time. It is available to all Areas.

Direct Communication with Victims (DCV)

DCV was introduced in 2001 by the CPS. Under this scheme the CPS commits to provide an explanation to victims where a charge is dropped or substantially reduced or increased in gravity. Normally this explanation is provided in a letter, but in certain types of cases a meeting is offered to the victim should they wish to discuss the decision further.

Discontinuance

The formal dropping of a case by the CPS through written notice (under section 23 Prosecution of Offences Act 1985).

Good practice

An aspect of performance upon which the Inspectorate not only comments favourably, but considers reflects a manner of handling work developed by an Area which, with appropriate adaptations to local needs, might warrant being commended as national practice.

Intimidated witnesses

See *Vulnerable or intimidated witnesses* below.

Local criminal justice board (LCJB)

These were established to improve the local delivery of criminal justice. Members include heads of the main criminal justice agencies and, in some areas, other criminal justice partners.

List of witnesses to attend court (LWAC)

This is a document produced by the CPS and used to notify Witness Care Units which witnesses are required to attend court.

Office for Criminal Justice Reform (OCJR)

Previously a cross-departmental team that supported all the criminal justice agencies in working together to provide an improved service to the public. It was moved under the Ministry of Justice umbrella and is now the Criminal Justice Reform Directorate in which there is a Victims and Witnesses Unit.

Out of court disposal (OCD)

Cautions, conditional cautions, youth diversions (reprimands and final warnings) and decisions not to charge on evidential or public interest grounds.

Prosecutors' Pledge

A ten point pledge introduced in October 2005 which details the level of service victims can expect from prosecutors. The Pledge mainly relates to the prosecutor's role at court.

Special measures

The Youth Justice and Criminal Evidence Act 1999 provides for a range of special measures to enable vulnerable or intimidated witnesses in a criminal trial to give their best evidence.

These include video recorded evidence in chief, a live link, screens around the witness box, evidence given in private, evidence given via a remote link, removal of wigs and gowns by those in the court room, video recorded cross-examination, examination of the witness through an intermediary and aids for communication through a communicator or interpreter. Some measures have been available for many years, for example screens, whilst others only more recently such as intermediaries.

The Coroners and Justice Act 2009 extended the definition of vulnerable to all children under 18 years and came into force in June 2011.

Victim personal statement (VPS) scheme

This scheme dates back to 2001 and is intended to give a voice to victims of crime by providing them with an opportunity to tell the criminal justice system how the crime has affected them - physically, emotionally, psychologically, financially or in any other way. Victims should be given an opportunity to make a VPS when a witness statement is taken. They are then able to provide a further statement at a later date, describing any longer-term effects.

Victim Support

This is the national charity which helps people affected by crime and provides free and confidential support for victims or witnesses, whether or not the crime is reported to the police.

Vulnerable or intimidated witnesses

The Youth Justice and Criminal Evidence Act 1999 defines vulnerable witnesses as being children and young people under 17 years of age and those who suffer from a physical or mental incapacity. Intimidated witnesses are those who are in fear or distress about giving evidence, which may reduce the quality of that evidence - for example victims of sexual offences.

Witness Care Unit (WCU)

A joint police and CPS unit with a remit to build on the work of the national implementation for No Witness No Justice and maintain a focus on the delivery and standards of service to victims and witnesses across both agencies. Its objectives include ensuring CPS compliance with all victim and witness commitments and supporting areas in the delivery of CPS and police commitments to victims and witnesses.

There are more than 150 WCUs in England and Wales responsible for managing the care of victims and prosecution witnesses from the point of charge to the conclusion of a case. They consist of witness care officers and other support staff whose role it is to keep witnesses informed of progress during the course of their case and provide practical support to encourage them to attend court to give their evidence e.g. help with childcare or travel arrangements.

Witness Charter

Designed to build on the Victims' Code this sets out core standards of service that all prosecution and defence witnesses should receive from the police and other criminal justice agencies.

Witness liaison officer

In each courthouse there is a witness liaison officer who assists in co-ordinating the provision of facilities for witnesses and provides a focal point for liaison with other agencies.

Witness Service (WS)

The Witness Service is part of Victim Support and it helps victims, witnesses, their families and friends when attending any of the criminal courts in England and Wales. This includes facilitating pre-trial visits for witnesses, so that they are familiar with the courtroom and the roles of the various people in court before they give their evidence, support on the day of the trial and accompanying the witness into the courtroom when they give their evidence and when the offender is sentenced (if agreed by the judge or magistrate). They also provide additional support to vulnerable and intimidated witnesses.



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