

Witness summons

Executive Summary

January 2016

WITNESS FOR THE PROSECUTION

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Fewer and fewer witnesses are attending court. Witnesses not attending court can mean that a trial has to be rescheduled, and can even result in the defendant being acquitted. The CPS rightly wants to reduce the number of times that trials have to be rescheduled or defendants walk free because witnesses don't attend. There are a number of ways that witnesses can be supported to give evidence in court. When other means are unsuccessful in compelling a witness to court, the CPS may apply for a witness summons.

Inspectors from HMCPSI audited 120 cases from 6 CPS Areas to find out whether the CPS is using witness summonses correctly. They looked at two aspects – whether the CPS is using the procedures correctly, and whether it was in the interests of the witness (who might also be the victim) and justice that the summonses were used.

Inspectors found that the CPS was complying well with the general rules on applying for a summons. The number of witness summonses issued increased by 12.4% between 2013-14 and 2014-15. However, inspectors did not find evidence that this has improved the number of witnesses turning up at court.

The CPS requested a background report on the witness in only one third of the cases inspected. Inspectors also found that in too many cases, prosecutors were not considering other options before applying for a witness summons. For example, they should make sure they consider whether it would increase the witness's willingness to attend court if they offered alternative ways for the witness to present their evidence, such as special screens or video link. Prosecutors should also consider whether the case could continue without the witness, for example by using statements from other people, CCTV evidence, 999 recordings and medical evidence.

In some Areas, a witness summons is issued by a court automatically. Inspectors recognise that this might help make sure a case proceeds quickly, but remind the CPS that if a summons is issued automatically, it must only be served on the witness if they indicate that they do not plan to turn up to court. It is important that the process does not alienate a witness or victim who has expressed no unwillingness to give evidence.

The CPS is not consistently recording in the Case Management System their reasons for applying for a summons. Nor does the system allow for flagging when a summons has been requested. If cases were correctly flagged, they could be monitored for trends such as the numbers of summons requested, issued and served and whether these resulted in successful outcomes. They could also identify trends in age, gender, ethnicity, and the victim's or witness's relationship to the defendant.

If a witness doesn't turn up at court having been summonsed, the court can decide to issue a warrant for their arrest. As with summonses, this can also have a significant impact on the witness, and on their willingness to engage with the criminal justice system in future. Before taking this approach, prosecutors need to make sure the summons is applied for early enough that it can be served on time, and that the witness received the travel costs and expenses they were entitled to. Inspectors found that in only two thirds of cases was the summons issued in time for the police to serve it on the witness before the trial date, and there was not enough consistency across the country in providing the travel costs and expenses.

The decision to apply for a witness summons should not be taken lightly. It should be the last resort and only considered when all other approaches have been exhausted.