



HMCPSI

HM Crown Prosecution
Service Inspectorate

Victim and witness care in the Serious Fraud Office

Does the Serious Fraud Office have effective policies and procedures in place to ensure that it can meet its obligations as set out in the code of practice for victims of crime in England and Wales?

January 2022

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Who we are

HM Crown Prosecution Service Inspectorate inspects prosecution services, providing evidence to make the prosecution process better and more accountable.

We have a statutory duty to inspect the work of the Crown Prosecution Service and Serious Fraud Office. By special arrangement, we also share our expertise with other prosecution services in the UK and overseas.

We are independent of the organisations we inspect, and our methods of gathering evidence and reporting are open and transparent. We do not judge or enforce; we inform prosecution services' strategies and activities by presenting evidence of good practice and issues to address. Independent inspections like these help to maintain trust in the prosecution process.

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1. Summary

Context

1.1. Effective and prompt communication with victims of crime and witnesses to crime about cases and their rights is essential to make them feel valued and like an integral part of the criminal justice system. It helps to build public confidence in the organisations responsible for keeping them informed about the progression of cases, as well as in the wider criminal justice system.

1.2. The code of practice for victims of crime in England and Wales (the Victims' Code), revised in April 2021¹, sets out the minimum standard that investigating and prosecuting authorities (referred to as service providers) must provide to victims of crime. Service providers are legally bound to provide the level of service set out in the code of practice. Similarly, the relevant agencies should be committed to meeting the standards which were established in 2013 and published in the Witness Charter².

1.3. The Serious Fraud Office (SFO) is a specialist prosecuting authority, responsible for the most serious or complex fraud, bribery, or corruption cases. The SFO is unusual in that it both investigates and prosecutes cases. It operates under the 'Roskill model' whereby investigators and lawyers work together from the start of a case.

1.4. In October 2019, HMCPsi published a report which considered case progression in the SFO³. In that report, we recognised that there had been a cultural change in the organisation: whereas previously victims and witnesses may have been treated as an afterthought, new strategies, policies and products had been introduced to improve the experience for victims and witnesses. A new witness care unit had been established to help deliver a more consistent approach to witness communications.

1.5. We reported that there had been measurable improvements in communications with victims and witnesses. The file sample we analysed during the inspection showed that in older cases, there had been no clear focus on

¹ *Code of practice for victims of crime in England and Wales*; Ministry of Justice; April 2021

www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime/code-of-practice-for-victims-of-crime-in-england-and-wales-victims-code-summary-of-victims-rights

² *The Witness Charter: standards of care for witnesses in the criminal justice system*; Ministry of Justice; December 2013

www.gov.uk/government/publications/the-witness-charter-standards-of-care-for-witnesses-in-the-criminal-justice-system

³ *Case progression in the Serious Fraud Office*; HMCPsi; October 2019

www.justiceinspectors.gov.uk/hmcp/inspections/case-progression-sfo-oct-19

victims and witnesses. This contrasted with the more recent cases, where it was clear that victims and witnesses were included in the core investigation strategy, with named individuals nominated as leads for victims and witnesses.

1.6. In that report, we also recognised the increased level of training, guidance and support provided to help SFO staff understand their responsibilities to victims and witnesses. Despite the training and guidance available, we noted some staff lacked confidence in their ability to deal with victims and witnesses at the early stage of a case. It was also highlighted throughout the report that the degree to which staff turned to guidance on providing support for victims and witnesses, specifically the SFO operational handbook, varied.

1.7. In this inspection we have chosen to focus on a number of the Rights described in the Victims' Code to assess whether the SFO has policies in place to support its obligations.

1.8. The rights we have focused on are:

- Right 4: To be referred to services that support victims and have services and support tailored to your needs
- Right 5: To be provided with information about compensation
- Right 6: To be provided with information about the investigation and prosecution
- Right 7: To make a Victim Personal Statement
- Right 8: To be given information about the trial, trial process and your role as a witness
- Right 9: To be given information about the outcome of the case and any appeals.

Challenges

1.9. There are unique challenges to SFO casework which affect its ability to comply with the Victims' Code.

1.10. The main challenges include:

- the volume of victims and witnesses involved in some of its cases
- the length of time cases can take to investigate, prosecute and conclude because of their complexity.

1.11. The SFO's caseload is usually fewer than 100 cases. At the time of the inspection, nine cases had what the SFO would determine to be 'identified victims'. However, those cases can often have thousands of victims. By way of example, we were told of one case with more than 11,000 identified victims and another with 7,000.

1.12. Compared to other types of cases progressed through the criminal justice system, SFO cases can take many years to conclude. This is largely because of their complexity and the large volumes of material involved in such prosecutions. By way of example, we were told about a case which has been ongoing for 10 years, meaning that SFO staff have had to keep victims and witnesses engaged in the prosecution process for all that time.

1.13. In addition, the SFO does not have a dedicated case management system with which it can manage casework material, information, or operational tasks. The lack of a dedicated system adds an additional challenge for SFO staff wishing to carry out checks and establish if victims and witnesses may have been investors in other cases subject to SFO investigations. It also means that the handling of victim care in cases can be more challenging.

Headlines

1.14. As identified in our 2019 report, introducing a dedicated witness care unit and a specific witness care coordinator has allowed case teams and other units responsible for updating victims and witnesses to seek out specialist guidance or support when required. The witness care coordinator has continued to encourage operational staff to focus on victim and witness requirements. In interviews, our inspectors were told about the positive working relationships established by case teams with the witness care coordinator and their team, and how this has resulted in more effective engagement by some case teams, as well as a better understanding of how the SFO can work with and consider victims' needs.

1.15. While it was clear that that introducing the witness care unit had led some case team staff to focus more on victims and witnesses, we were told that inconsistencies remained. For example, the witness care unit has to chase some case controllers for information and updates on the progress of a case to enable it to comply with the obligations in the Victims' Code.

1.16. Operational staff understood when to carry out a needs assessment to determine the requirements of victims and witnesses. Initial needs assessments are carried out during the pre-charge stage, and further, more detailed needs assessments are carried out during the investigation, with those witnesses called to attend trial hearings.

1.17. The SFO recognises that it is legally bound under the obligations set out in the Victims' Code (updated 2021). This information is clearly published on the SFO's website under "Information for victims, witnesses and whistleblowers"⁴. However, operational staff raised concerns that there are some rights set out in the code of practice which they do not believe they can realistically achieve, notably:

- Right 6: To be provided with information about the investigation and prosecution
- Right 7: To make a Victim Personal Statement
- Right 8: To be given information about the trial, trial process and your role as a witness.

⁴ *Information for victims, witnesses and whistleblowers*; Serious Fraud Office; accessed December 2021
www.sfo.gov.uk/publications/information-victims-witnesses-whistleblowers

1.18. In relation the right to make a Victim Personal Statement (VPS), some operational staff expressed the view that offering all identified victims the opportunity to provide a VPS was unrealistic in some cases, such as where there is a large volume of witnesses. They expressed concerns about the impact on the criminal justice system of serving all these statements. They were unclear how they were expected to determine who should be given the opportunity to provide a VPS, and there was no clear guidance in this respect.

1.19. In relation to Rights 6 and 8, other than the witness care coordinator, most operational staff were unaware of the requirement to update some victims within 24 hours or five days following court hearings or other significant changes in cases that would require an update. Instead, the view is that operational staff will look to provide updates as soon as they can, either via the website or, in those instances where victims and witnesses may have been warned to attend court, via face to face discussions where possible.

1.20. We understand that the SFO has strongly made representations at an official level on how it could achieve its Victims' Code obligations, and that dialogue remains open with the relevant Whitehall departments. As with all public bodies, the SFO must deliver the service and obligations set out in the Victims' Code in its current form. It would be helpful for the SFO to consider strategically how it intends to deliver against those obligations and provide clear guidance to staff. Interviews with operational staff highlighted that local case decisions are made which appear rational in the context of the case but do not comply with the obligations in the Victims' Code.

1.21. The main method by which the SFO carries out its obligations under Rights 4, 6, 8 and 9 is by providing updates on cases to victims and witnesses through its website. Victims and witnesses are directed to the website early in the investigation as their main way of finding additional support services and tracking the progress of a case. The SFO's ambition is to provide updates on a case every three months, or as soon as possible following any significant development.

1.22. Given the challenges that the SFO faces with the volumes of victims and witnesses and the length of time investigations can take to conclude, the three-month update seems reasonable for general updates which do not undermine its obligations under the Victims' Code. However, we were told that some updates can be as simple as altering the 'last updated' date on the case update page. Some of those pages are long and contain a lot of information the user must scroll through to see the published date. The SFO may wish to consider whether this could be made more prominent and whether a more targeted and personalised approach could be more effective.

1.23. The SFO operational handbook clearly sets out the expectation that all cases must have a victim and witness strategy. Case review panels are used as high-level assurance for each case. The handbook states that case review panels should review the overall investigation strategy of a case. The victim and witness section sits within this overall strategy. We found that it was unclear whether the victim and witness strategy was reviewed consistently during the meetings. The SFO may wish to consider adding a specific direction in the handbook and processes to assure itself that each case has a specific and effective victim and witness strategy.

Recommendations, issues to address and good practice

1.24. We make the following three recommendations.

Recommendations
The Serious Fraud Office should review its victim and witness strategy to determine how it can more effectively offer all victims the opportunity to provide a Victim Personal Statement. (paragraph 3.9)
The Serious Fraud Office should review how it deals with communications with identified vulnerable or intimidated victims, and develop a comprehensive strategy on how it can improve performance. (paragraph 5.19)
The Serious Fraud Office should review its training materials and make sure they address when Victim Personal Statements should be offered and the timescales required for providing information to victims. (paragraph 6.5)

1.25. We found the following two issues to address.

Issue to address
The Serious Fraud Office should revise its operational handbook to ensure that that victim and witness strategy is consistently reviewed at case review panels. (paragraph 4.12)
The Serious Fraud Office may wish to consider if it can improve how to communicate three-month updates where no significant event has occurred. This will ensure victims and interested parties are aware that the case is still progressing. (paragraph 5.13)

1.26. We identified the following good practice.

The introduction of the witness care unit has led to a greater focus on the service provided to identified victims. The Serious Fraud Office should look to build on this and ensure that all case team members are focused on delivering the expected levels of service. (paragraph 5.7)

1.27. We recognise that the SFO is fairly unique in how it operates within the wider criminal justice system and that as such, some aspects that we would consider good practice may not always translate into effective practice in other criminal justice agencies. Throughout this report, we identify a number of aspects of things that are done well, but given the uniqueness of the SFO it is difficult to categorise these aspects as good practice, since directly transferring what takes place in the SFO into other parts of the criminal justice, mainly the Crown Prosecution Service, is unlikely to be possible. Where we have identified good practice – for example, the four part needs assessment (paragraph 4.3), attendance with the victim by the witness care officer (paragraph 5.4) or the development of sample letters in plain English (paragraph 6.3) – the fact that it is unique to the SFO should not be seen as it being less effective. All the aspects that inspectors highlight as positive practice indicate that there is a developing culture in the SFO of delivering a service to victims.

Methodology

1.28. The aims of the inspection were:

- to assess SFO staff's overall awareness of the policies and procedures relating to witness care communications and how they are used to support the organisation's obligations as set out in the Victims' Code
- to establish whether the SFO has efficient internal systems to identify vulnerable victims and witnesses at an early or appropriate stage of the case
- to determine whether the witness care unit or other relevant staff are provided with sufficient, timely information by the relevant teams to inform victims and witnesses of key developments or progress in cases
- to establish whether the SFO has provided staff with effective guidance and training to assist them in providing timely and high-quality communication with victims and witnesses.

1.29. The high-level question and inspection criteria we used are set out in annex A.

1.30. The inspection team analysed key documents which detail the stages of a case at which victims should be identified and who has responsibility for communicating with them.

1.31. We assessed key policy documents which set out the SFO's overall governance and strategic direction for improving its services to victims and witnesses. We were provided with copies of some of management information relating to communications and the timeliness of updates to victims.

1.32. Our team were provided with copies of training courses and training records. We also looked at the relevant sections of the SFO operational handbook, along with various templates such as cover letters, information packs sent to victims and witnesses, and documents used for managing details.

1.33. We spoke with staff who have responsibility for dealing with victims and witnesses at different stages of the investigation and prosecution process, including:

- the head of the strategy and policy directorate
- witness care unit team members
- case controllers
- case investigators
- intelligence officers
- case progression officers
- members of the communications team.

1.34. A detailed file analysis of communications with victims and witnesses was not in scope for this inspection. As described in paragraph 1.7, we limited the inspection to a number of rights under the Victims' Code, focusing on three main areas of those rights: identifying victims (including any vulnerable or intimidated victims), recording information and providing relevant updates.

2. Identifying victims

Who is a victim

2.1. The code of practice for victims of crime in England and Wales (the Victims' Code), revised in April 2021, sets out the minimum standard that service providers must provide to victims of crime.

2.2. The Victims' Code defines victims as:

- a person 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.

2.3. People can also receive rights under the Victims' Code if they are:

- a parent or guardian of the victim if the victim is under 18 years of age
- a nominated family spokesperson if the victim has a mental impairment or has been so badly injured because of a criminal offence that they are unable to communicate or lack the capacity to do so.

Which rights apply

2.4. The Victims' Code lists 12 rights and states that three of these must be applied to all victims. The remaining rights only apply to cases where a crime has been reported to the police. It is the duty of the relevant service provider to inform the victim/s which rights apply to them.

2.5. The Victims' Code establishes that, where service providers such as the Serious Fraud Office (SFO) accept formal responsibility for conducting a criminal investigation or making a decision to prosecute, they must deliver the same rights without unjustified delay. It is fair to assume that the SFO has an obligation to deliver all rights under the code of practice.

2.6. In this inspection we have focused on Rights 4–9 under the code of practice.

Identification of victims

2.7. Most cases investigated and prosecuted by the SFO do not have witnesses who meet the Victims' Code's definition of a victim.

2.8. In those cases where victims (as defined in the code of practice) are recognised, most will be identified before the case is charged (in the pre-charge stage).

2.9. A victim's initial contact is likely to be with the intelligence division of the SFO. This division receives reports of crimes from victims and will assess whether they meet the SFO's criteria for accepting a suitable case or should be referred to a partner agency instead.

2.10. Reports by victims and others are made via a crime reporting portal. The portal will send an automatic response to a victim, notifying them that they will be contacted by the SFO within 21 days if the case is to be progressed. If not, they are to assume that their case will not be taken on by the SFO. It should be noted that we did not explore this point further as it was not within scope of this inspection. However, we may revisit this in a future inspection.

2.11. When a decision is made to progress a case, it must be accepted by the SFO Director for criminal investigation. The case will then be allocated to an SFO case team, led by a case controller, to investigate. During the pre-charge stage of a case, it is the responsibility of the case investigators to identify any potential victims.

2.12. There are effective systems in place to allow case investigators to identify victims during the pre-charge stage. However, because of the complexity and volume of material, some SFO cases can remain in the pre-charge stage for many years. We were told about one example where a case entered the pre-charge stage in 2012 before charges were preferred in 2017. The case is not due to be heard for trial until 2022.

2.13. During our interviews, SFO investigation officers told us that they assess information provided by investors using a pre-prepared questionnaire. This allows them to identify potential victims and witnesses. Owing to the complexity of SFO cases, thousands of victims can be identified. We were given examples of two current investigations, one with more than 7,000 victims and one with more than 11,500. Investigators remain the main point of contact for victims and witnesses during the pre-charge stage of a case.

2.14. Inspectors heard from staff in a variety of roles that most victims are not classed as 'high risk' and that, owing to the nature of the crimes being investigated, most victims will be either an investor or shareholder of a company

which is being investigated and therefore will rarely be classed as 'in danger'. However, it was acknowledged that some victims may be reassessed later, when staff complete needs assessments prior to victims attending court to give evidence, as being eligible for 'enhanced rights' as defined in the Victims' Code.

2.15. A number of staff we interviewed recognised the work of the witness care coordinator and their attempt to change the culture and mindset of how teams recognise victims. Because many SFO cases do not have victims in the traditional sense, the witness care coordinator has asked casework staff to give thought to 'indirect victims' and the impact that a criminal case has on them, with a view to improving overall awareness of the importance of victim and witness care. Examples included employees of companies who have ceased trading and companies and employees who have missed out on contracts because of criminal and fraudulent activities.

2.16. It is important to recognise that, while company employees are not classed as victims, some might be witnesses; and the work being conducted by the witness care coordinator is about developing the culture in the SFO to be more victim and witness focused.

3. Victim personal statements

3.1. Right 7 of the code of practice for victims of crime in England and Wales (the Victims' Code) states that all identified victims have the right to make a Victim Personal Statement (VPS), "to explain in your own words how a crime has affected you, whether physically, emotionally, financially or in any other way". A VPS differs from a witness statement and is considered by a judge or magistrate when deciding the sentence of a defendant or defendants.

3.2. There are several steps which underpin this right, notably that the VPS process should be explained to victims by the service provider, including the opportunity to read their VPS aloud in court.

It was their view that it would be unrealistic to overload the court system with thousands of VPSs

3.3. Before the revised code of practice was published in 2021, the Serious Fraud Office (SFO) had no obligation to offer all victims involved in a case the opportunity to provide a VPS. Under the revised code of practice, it has a duty to offer all victims of a crime the option not only to provide a VPS, but also to make a request to read their statement in court, subject

to the views of the judge or magistrate.

3.4. We found no evidence that the VPS process is fully explained to all victims during the life of a case. We saw evidence in the needs assessment templates (paragraph 4.4) that victims are asked a number of questions, including whether they are content to check the SFO website for updates or would prefer an alternative method of contact.

3.5. It was clear that both case controllers and the witness care coordinator were aware of the requirement to offer all victims the chance to provide a VPS. However, in interviews, staff expressed genuine concerns about how this could work in a practical sense, given the large number of victims that SFO cases can have. It was their view that it would be unrealistic to overload the court system with thousands of VPSs and to see them properly considered.

3.6. The head of the strategy and policy division told us that concerns had been raised with the Ministry of Justice as to how the SFO could realistically comply with Right 7 before the publication of the revised code of practice. We have seen correspondence where representations were made during the review of the Victims' Code, which note that, given the circumstances of the SFO's cases, it is in a somewhat unique situation. We understand that that dialogue remains open with the Ministry of Justice, but as things stand, the revision of the obligations in the Victims' Code creates an expectation from victims and victim groups that clearly adds a major burden to the SFO. However, until the Victims'

Code is further revised, it is our assessment that all victims in SFO cases should be offered the right to be able to make Victim Personal Statements.

3.7. The organisational position held by most staff was that, given the numbers of victims on some cases, the opportunity to provide VPSs would be limited to those victims who are asked to attend court to give evidence at a trial hearing. The SFO handbook and guidance we examined as part of the inspection was not clear about what should happen. Given that the Victims' Code had only been recently changed to include all SFO cases, and that there is still ongoing discussion at the official level about the impact of the change, it is not entirely surprising that there did not appear to be clear guidance or an overall strategy for how staff should decide which victims are asked to provide a VPS.

3.8. However, the change to the Victims' Code came into force in April 2021. Given that the SFO knew it was to be included, we would expect that, strategically speaking, the SFO may have been more prepared to manage and communicate the change, whilst still trying to influence the overall outcome of the revisions.

3.9. It must be recognised that, given the volume of victims on some SFO cases, giving all victims the opportunity to provide a VPS and read it in court would be a challenge not only for the SFO but for the criminal justice system. However, our view and that of victims would be that the SFO cannot unilaterally decide to depart from some obligations in the Victims' Code. The Victims' Code provides no exception to the SFO and, unless current representations are successful, the SFO is not currently fully complying with its obligations under the code of practice.

Recommendation
The Serious Fraud Office should review its victim and witness strategy to determine how it can more effectively offer all victims the opportunity to provide a Victim Personal Statement.

4. Recording information and case strategies

Victim and witness needs assessments

4.1. The Serious Fraud Office (SFO) has several strategic and operational systems in place to make sure the needs of victims and witnesses are considered during the life of case.

4.2. There is an effective process in place to recognise where victims and witnesses are entitled to enhanced rights or additional support throughout the investigation. Case team members, witness care unit staff and other staff carry out needs assessments as necessary at key times in the process. Assessments can take place before charge or throughout all stages of the process up to the trial hearing should the case proceed that far. The requirements and expectations are set out in the operational handbook. If a case proceeds to trial, a minimum of three needs assessments will have been completed for all victims and witnesses in the case.

4.3. Victims and witnesses are asked to complete an initial, or 'basic', needs assessment during the intelligence gathering stage. The assessment documents also confirm all key SFO contact details, including any alternatives for when victims are unable to make contact with their main contact. Following acceptance of the case, case investigators will carry out a more detailed needs assessment during the pre-charge stage, and witness care staff will carry out a final needs assessment before the victim attends court to give evidence at trial.

4.4. The assessments ask victims and witnesses to confirm a number of details which help staff to make casework decisions and progressing cases. The details include whether a victim or witness is willing to attend court to give evidence; whether they have any special needs; requirements or health issues; and whether they wish to be referred to local crime support services. The assessments make it clear to victims and witnesses that SFO cases can take years to progress, and that case updates will be published on the SFO website as direct communication is not always possible. During the needs assessment, victims and witnesses are given the option to request an alternative method of update such as letter or phone.

4.5. While the number of needs assessments requested during the life of a case is effective at capturing any changes in circumstance individuals may experience over a long period of time, most of the information provided is duplicated across multiple forms. Several staff highlighted that they must manually and onerously manage large volumes of information stored on multiple forms, which leads to an increased risk of inputting incorrect information. They also highlighted that they cannot cross-reference victim and witness details with other investigations to establish if victims may have an interest in other cases.

4.6. At the time of the inspection, inspectors were told that the SFO was in the process of developing a victim and witness database, but staff were unaware of when it would be ready for use. Staff hoped that this would make managing information more efficient and make key information more readily available to all staff managing aspects of the case. The SFO should ensure that development of the database is progressed as a priority.

Victim and witness case strategies

4.7. There are clear expectations that case teams must prioritise victims and witnesses throughout the life of a case. The SFO operational handbook states that all cases must have a victim and witness action plan, the purpose of which is to highlight the volume of witnesses and expected statements, as well as to identify any risks and issues. There is also an expectation that the action plan will establish the frequency of updates provided to victims and witnesses.

4.8. However, in interviews, various staff told our inspectors that there is a general expectation that updates will be provided on all cases every three months. Given the long running nature of SFO cases, it may be understandable and acceptable that there is a general approach which includes a three-month update on cases, but there will be times when a more tailored approach would be required. In interviews with casework staff, it appeared that little thought was given to when a case may warrant updates by exception or more frequent updates. The SFO may want to consider how to reflect this in the operational handbook and to inform case teams that individual case circumstances may require a more proactive approach to victim and witness communication.

4.9. All cases are subject to regular case review panels, led by senior leaders and legal experts. The panels are in place to provide a high-level assurance review.

4.10. The purpose of the review panel is to review the current progress of the case and the overall investigation strategy. The operational handbook states that the case strategy should include the victim and witness action plan. However, the handbook does not currently make it clear that the victim and witness strategy should specifically be discussed to identify any issues with victims or witnesses which could affect the progress or outcome of a case.

4.11. The witness care coordinator told us that they have been invited to attend or prepare updates for some case review panels. This indicates that the review panels dedicate time to discussing any victim and witness care issues. It was less clear what would happen on occasions where the witness care coordinator was not available or invited to attend the meeting. We were told, for example, that witness care officers would not be expected to attend all case

panel reviews. Given the relatively small number of cases with identified victims, the SFO will want to assure itself that all case review panels include dedicated time for discussing victim and witness strategies and should look to build resilience around this.

4.12. At the time of our inspection, the SFO operational handbook was being reviewed with a view to launching updated guidance before the end of 2021. The SFO should consider including specific guidance on the victim and witness action plan to make sure they are consistently given proper consideration.

Issue to address
The Serious Fraud Office is currently revising its operational handbook and should ensure that that victim and witness strategy is consistently reviewed at case review panels.

Victims and witnesses working group

4.13. The SFO is committed to improving its service to victims and witnesses. A victims and witnesses working group was established several years ago and remains the organisation's main strategic group for reviewing victim and witness care policies and making sure the SFO can deliver against its obligations in the Victims' Code.

4.14. The group is chaired by a senior lawyer from the strategy and policy division and includes representatives from all operational divisions and non-operational departments. The group members include lawyers, investigators, case progression officers and witness care staff.

4.15. The group has been responsible for deciding how the SFO can improve its communications with victims and witnesses in situations where it was not required to do so under previous versions of the code of practice. For example, under a previous version of the code of practice, the SFO was not required to provide updates to victims on cases which were being appealed. The group reviewed this and, along with SFO leaders, a decision was made that the organisation would keep victims informed on cases which are appealed.

5. Providing information

Internal processes

5.1. Rights 6, 8 and 9 of the code of practice for victims of crime in England and Wales (the Victims' Code) oblige the relevant service provider to keep victims informed throughout the life of a case with relevant and timely information.

5.2. The Serious Fraud Office (SFO) operational handbook clearly states that it is the responsibility of the case controllers to provide timely information to the relevant units, usually the witness care unit and communications team, following any significant updates to a case. Case controllers that we spoke to confirmed that they viewed this as their responsibility.

the witness care coordinator and their team have developed excellent working relationships

5.3. Witness care staff and communication team staff that we interviewed said that, depending on which case controller was in charge of the case, there were inconsistencies in updates being provided. Witness care staff felt that some case controllers were more focused on case investigation deadlines being met, rather than providing updates to victims

and witnesses.

5.4. It was established in interviews that for those victims and witnesses attending court to give evidence in a trial, their main point of contact is with SFO witness care officers, who attend to provide guidance on the court process and continuity of care throughout the trial.

5.5. SFO case progression officers told us that they used to have a bigger role in managing victim and witness issues, but that since the witness care unit was established, their involvement is now largely limited to their interactions at court. Some staff felt that case progression officers could be more involved in managing casework activities. Given the proactivity of the witness care unit, however, it is not clear what duties could be allocated to them, unless it was to help make sure updates are provided within the relevant timescales (paragraph 5.16).

5.6. It was clear from all our interviews that the witness care coordinator and their team have developed excellent working relationships with colleagues in the case divisions, as well as with those in strategy and policy teams, with whom they need to liaise closely to update victims and witnesses about significant events. These events include:

- when a conviction has been secured
- when further hearings such as sentences have been scheduled
- when a case is expected to continue for a longer period of time, such as when a proceeds of crime schedule has been ordered.

5.7. We were told that, should a case controller require an update to be communicated in a sensitive or specific way, they will liaise closely with the witness care and communication teams to make sure the communication is drafted to the required standard.

The introduction of the witness care unit has led to a greater focus on the service provided to identified victims. The Serious Fraud Office should look to build on this and ensure that all case team members are focused on delivering the expected levels of service.

Providing information

5.8. The SFO sets itself an internal ambition of providing updates on all cases every three months as a minimum (paragraph 4.8). Given the length of time that it can take to investigate and conclude SFO cases, this seems a reasonable ambition to achieve. Staff in all roles that we interviewed consistently confirmed that this is understood this to be their minimum standard.

5.9. Because victims and witnesses involved in SFO cases can often number in the thousands and span various international jurisdictions, ensuring that updates are provided in a timely manner can be a challenge. To maximise the number of people it can reach with updates about key events during the life of a case, the SFO uses its website to provide updates about case outcomes, notifications of appeals and proceeds of crime hearings.

5.10. The “Our cases” section of the SFO website lists cases in alphabetical order and by category (criminal investigations, proceeds of crime cases and cases under deferred prosecution agreements). The page makes it clear that the SFO will only provide “as much information as we can without compromising law enforcement work, prejudicing the right of defendants to a fair trial, or causing avoidable reputational damage or harm to individuals or businesses under investigation.”⁵ It is therefore important to recognise that information included in the updates is likely to be limited.

⁵ *Our policy on making information about our cases public*; Serious Fraud Office; accessed December 2021
www.sfo.gov.uk/our-cases/

5.11. Ensuring that victims and witnesses are aware of updates is also challenging for the reasons we describe in paragraphs 1.9–1.13. However, we were told by staff in interviews that the SFO has started to make use of other technologies to direct interested parties to new updates on the website. These include the ability to send brief emails and text messages in bulk to thousands of people at once.

5.12. It is the responsibility of the communications team to add the relevant updates to the website. They liaise closely with the case controllers and witness care unit to make sure updates are completed every three months. If there have been no significant events in a case between updates, the communications team updates the ‘page modified’ date on the relevant webpage.

5.13. We were given an example of one case which had been recently updated, and which the communication team viewed as the standard by which they should update all cases. There is a clear “Updates for investors” section with significant updates covering the previous two years. However, the most recent update only involved updating the ‘page modified’ field. On first viewing, it is not obvious that there has been an update. Visitors must cross reference the dates of previous updates with the small date field on the page.

Issue to address
The Serious Fraud Office may wish to consider if it can improve how to communicate three-month updates where no significant event has occurred. This will ensure victims and interested parties are aware that the case is still progressing.

5.14. The SFO provides comprehensive support documents to victims and witnesses who are called to attend court (see paragraph 6.3). These cover basic information such as directions to the relevant court centre, along with more detailed guidance on what people can expect when they attend court.

Enhanced rights and timescales for updates

5.15. The Victims' Code establishes that a victim who is considered to be vulnerable or intimidated, is a victim of the most serious crime, or has been persistently targeted is entitled to enhanced rights and additional support. Additional support can include being referred to a specialist support service, having access to special measures, and being contacted sooner after key decisions. It is the duty of the service provider to identify victims who are entitled to enhanced rights.

5.16. The Victims' Code makes it clear that victims must normally be made aware of any significant updates – including key decisions such as stopping a case or significantly altering any charges – within five working days, or one working day if the victim is entitled to enhanced rights.

5.17. Right 9 obliges the service provider to communicate what the outcome is within six working days of the conclusion of a case. This should include information on the sentence or any further hearings, if known at this stage.

5.18. Other than the witness care coordinator, no staff member we interviewed was aware of the timescales that should be applied when updating victims. There was no acknowledgement that as a minimum standard, any significant events should be updated on the website within five working days and communicated to victims who have been identified as vulnerable or intimidated within one working day.

5.19. Given the small number of live cases that the SFO investigates, it should be realistic to expect case controllers or a suitable alternative colleague – perhaps a case progression officer attending court – to update the witness care unit as soon as a significant event takes place. This would allow them to work with the communications team and ensure that updates are provided within the relevant timescales.

Recommendations

The Serious Fraud Office should review how it deals with communications with identified vulnerable or intimidated victims, and develop a comprehensive strategy on how it can improve performance.

Performance measures

5.20. To the witness care unit's credit, it does gather some strategic performance data, despite the limited number of cases with identified victims being investigated by the SFO. The data includes the current number of cases with identified victims (9), the volume of needs assessments sent to victims and returned, and the rate of compliance with the three-monthly update ambition. However, it is notable that no data is collated on updates being provided within five working days (or one working day for victims identified as vulnerable or intimidated).

5.21. In the performance documents we were provided with, there was a documented increase in the organisation's compliance with its ambition to update cases on the website every three months. Between the first and fourth quarters of 2020–21, the compliance rate rose steadily from 63% to 100%. On the most recent performance document provided to us, there was a note asking whether it was a realistic ambition to maintain this 100% compliance rate. Given the relatively small, albeit complex investigation, it seems reasonable to keep this as the ambition.

5.22. At the time of our inspection, the witness care coordinator told us that they planned to start surveying witnesses who had been called to attend court to give evidence. The purpose of this will be to measure overall satisfaction with the service the SFO has provided to these victims and witnesses. There was no data at the time of the inspection, but this seems like a sensible approach to see how performance improvements can be delivered.

6. Guidance and training

Guidance documents

6.1. The Serious Fraud Office (SFO)'s processes are clearly set out in its operational handbook. All staff are given access to the handbook and are expected to follow the processes it sets out. Several staff in various roles told us that in previous versions of the handbook, systems relating to victim and witness care communications were integrated with other sections, where the relevant casework process could be viewed as having priority. Numerous staff told us that the witness care coordinator has helped to change the focus in the handbook by removing these disparate references to victim and witness care and combining them into a dedicated section.

6.2. The witness care coordinator identified that, in their view, the section relating to victim and witness care could be further streamlined to make it easier for staff to follow. This view was supported by others during our interviews, and was attributed to the positive working relationships that have been established between case teams and the witness care unit. Case controllers and investigators stated that the witness care unit's support on cases in recent years has allowed them ask them for guidance or support, drawing on its specialist knowledge when required. They also told us they were more likely to liaise directly with the witness care unit than to refer to the operational handbook if they felt more specialist input was needed. Whilst this introduces some risk of over-reliance on the witness care unit, it should be a manageable risk which comes from having a dedicated team.

6.3. The witness care unit has developed a number of template forms for gathering information, template letters to assist case teams, and supporting document packages to send to victims and witnesses. These packages include information about attending court and referral details for organisations offering emotional support or advice on financial services. All relevant staff have access to the templates. However, operational staff identified the lack of a dedicated case management system, which means managing the information efficiently is difficult. A number of staff told us that folder structures were not maintained consistently and templates were frequently stored in the wrong folder. An effective case management system could help to improve this.

Training

6.4. The SFO has developed some specialist training courses, notably a leading complex investigations course, and a trainee investigators' course. Both contain a comprehensive section dedicated to victim and witness care. Case team staff who have attended the courses were complimentary about the section and felt that it helped them focus on how to improve the service to victims and witnesses.

6.5. As we describe in paragraph 5.18, aside from the witness care coordinator, there was a general lack of awareness among SFO staff of the requirement to provide certain information to victims within set timescales. Based on the documents provided to us for analysis, however, we did note that there is no reference to the SFO's obligation to update victims who are entitled to an enhanced service within the expected timescales.

Recommendation
The Serious Fraud Office should review its training materials and make sure they address when Victim Personal Statements should be offered and the timescales required for providing information to victims.

Annex A

Inspection criteria

Inspection question

Does the Serious Fraud Office (SFO) have effective policies and procedures in place to ensure that it can meet its obligations as set out in the code of practice for victims of crime in England and Wales?

In this inspection we have chosen to focus on a number of the rights described in the code of practice to assess whether the SFO has policies in place to support its obligations.

The rights we have focused on are:

- Right 4: To be referred to services that support victims and have services and support tailored to your needs
- Right 5: To be provided with information about compensation
- Right 6: To be provided with information about the investigation and prosecution
- Right 7 To make a Victim Personal Statement
- Right 8: To be given information about the trial, trial process and your role as a witness
- Right 9: To be given information about the outcome of the case and any appeals.

Aims

The aims of the inspection include:

- to assess the overall awareness of SFO staff of the policies and procedures relating to communications with victims and how they are used to support the organisation's obligations as set out in the code of practice
- to establish whether the SFO has efficient internal systems to identify vulnerable victims at an early or appropriate stage of the case

- to determine whether the witness care unit or other relevant staff are provided with sufficient, timely information by the relevant teams to inform victims and witnesses of key developments or progress in cases
- to establish whether the SFO has provided staff with effective guidance and training to assist them in providing timely and high-quality communication with victims.

Framework

- The SFO has effective systems and processes in place to ensure it can deliver the required support to victims.
 - An efficient process is in place to identify vulnerable victims and witnesses at an appropriate stage of a case.
 - Staff are aware of when a victim should be offered the opportunity to provide a Victim Personal Statement (VPS).
 - Systems are in place to ensure that victims' information, including needs assessments, is recorded accurately and additional support is offered where relevant.
 - Effective processes are in place to provide the witness care unit with up to date information, ensuring that victims are effectively updated at the relevant stage of a case.
 - Accurate information is provided to witness care staff by the relevant team regarding the outcome of a case, including any appeals, allowing them to provide updates to victims within the relevant timescales.
- SFO staff are provided with guidance and training on policies relating to victim and witness care communications.
 - All staff are provided with clear guidance on effectively managing, recording and prioritising information relating to victim care.

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