



**WITNESS CARE - FOCUSING ON
GREATEST NEED
MINIMUM REQUIREMENTS**

Introduction

In recent years there have been a number of initiatives introduced to support victims and witnesses within the criminal justice system (CJS). The overarching aim of these initiatives has been to ensure that individuals are able to give their best evidence, are more willing to attend the trial to ensure justice is done and to provide support to victims and witnesses through 'placing them at the heart of the justice system'.

The No Witness, No Justice (NWNJ) initiative was designed to deliver a more thoughtful and responsive CJS. NWNJ set out to make this happen by changing the way the police and CPS dealt with victims and witnesses, principally through introducing dedicated Witness Care Units (WCUs). By the end of 2005, 165 WCUs provided a partnership approach to victim and witness care across the whole of England and Wales.

The objectives of NWNJ were to:

- Deliver a more customer focused service through the creation of dedicated WCUs;
- Reduce the rate of cracked and ineffective trials through improved witness attendance at court;
- Enable more witnesses to give their best evidence; and
- Increase victim and witness satisfaction.

These overarching objectives have been achieved. Both witness attendance and victim and witness satisfaction have increased significantly and the rate of cracked and ineffective trials due to witness issues has reduced.

The WCUs provide support and information to victims and witnesses post charge based on individual need. Central to the delivery of this service has been a set of Minimum Requirements, which has been in place since the WCUs were introduced. These commitments are underpinned by the Code of Practice for Victims of Crime (Victims' Code), which was introduced in 2006 and which sets out the service victims can expect not only from the WCUs but also from the other criminal justice agencies. There are plans to review the Victims' Code but any revisions are not likely to be introduced until 2014 as they will require legislative change.

In more recent years, reports such as 'Redefining Justice' by Sara Payne, Victims' Champion until 2010 and 'Ending the Waiting Game; a plea for common sense' and 'The poor relation – victims in the CJS' by Louise Casey, Victims' Commissioner until October 2011, have influenced the approach by the CJS to victim and witness care. Sara Payne recommended in her report that the CJS should be addressing the needs of individual victims and witnesses; Louise Casey was of the view that the CJS should be focusing its resources on those victims and witnesses who most need our support rather than delivering a standard service for all.

In light of the above recommendations and the outcome of the Comprehensive Spending Review in 2010, which called for a more streamlined approach to the delivery of all public services, a decision was

made to pilot a revised service that WCUs provide to victims and witnesses, focusing the support they gave to those in 'greatest need', at the same time ensuring that, by doing so, this did not have an adverse impact on current levels of victim and witness satisfaction and witness attendance rates. Levels of communication with victims and witnesses were streamlined, ensuring policies and processes remained fit for purpose, using technology better to support all, and targeting support at those who were vulnerable, intimidated or who had other particular support needs (defined as in 'greatest need').

WCUs in Wales (as part of the All Wales Collaboration Project) and the West Midlands piloted these new arrangements for a number of months using a revised set of minimum requirements. This exercise linked to the work which was already underway in these Areas to review the service delivered locally to victims and witnesses.

The pilot exercise has been a success. Witness attendance rates have not been adversely affected in either of the Areas and early feedback from victims and witnesses has been very positive. As a result both the CPS and ACPO have agreed to the national roll out of the targeted service. The purpose of this document is to set out the agreed set of revised minimum requirements which will be introduced as part of the roll out.

MINIMUM REQUIREMENTS

As indicated above a decision has been made to adopt a more proportionate approach to witness care, streamlining levels of communication to victims and witnesses according to their needs. In essence, this means that the WCUs will offer a tiered service to victims and witnesses dependent on need rather than adopting a 'one size fits all' approach.

NOTE: Under paragraph 3.8 of the Victims' Code, 'a victim of crime.....may opt out of receiving services under the Code, or request that the obligations that they qualify for be modified, at any time'. The Code goes on to say that a victim of crime may choose to opt back in to receiving services at any time 'while the case is under active investigation or receive an update if the investigation has been concluded'. **It is therefore important for WCUs to continue to offer the service that victims are entitled to receive under the Code unless the victim has indicated that they would like a partial service or that they wish to opt out.**

Victims who are not willing to support the prosecution process and who are therefore reluctant to engage with the WCUs are not considered to have opted out of receiving services for the purposes of delivering the Code or these minimum requirements.

THE INITIAL NEEDS ASSESSMENT (INA)

At the point of taking the statement, the police officer will complete an initial needs assessment on the reverse of the MG11 for each civilian victim or witness (excluding professional witnesses, such as store detectives and doctors). The aim of the initial needs assessment is to identify any particular victim and witness needs at the earliest stage, trigger relevant support, to assess the willingness of the witness to attend court and to assist the charging prosecutor or the prosecutor reviewing the file.

The initial needs assessment prompts police officers, at an early stage, to seek to establish whether any victim or witness might be vulnerable or intimidated. It will set out:

- **issues of concern, such as intimidation, disability;**
- **whether special measures are needed; and**
- **whether the victim wishes to make a Victim Personal Statement**

The early identification of witnesses who may be vulnerable or intimidated or have other particular needs is extremely important. Failure to identify vulnerable or intimidated witnesses at the evidence gathering stage of an investigation may prevent a witness having access to the support they need and the range of special measures available to assist them give their best evidence.

INFORMATION PROVISION

Victims and witnesses should know that their case is progressing through the CJS. Providing this information is key to improved satisfaction and a victim's or witness's willingness to support a prosecution in the future.

Up to and including the point of charge the police officer is responsible for updating victims on the progress of the investigation under the Victims' Code. The WCUs are responsible for keeping both victims and witnesses informed of the progress of their case post the first hearing through to the conclusion of the case.

The speedy provision of update information prevents victims and witnesses being told about the case they are involved in through the media or in local newspapers. Most importantly, it manages a victim's or witness's expectations, so that if the accused is seen in the street or outside their home, they know what has happened with the case and it does not come as a shock.

All **civilian** victims and witnesses (excluding professional witnesses) will receive a minimum level of service with additional support and information being offered depending on the needs of the individual victim or witness.

A table summarising the minimum requirements relating to information provision for the different types of cases can be found at Annex A below.

All victims and witnesses

The following information will be provided to **all** victims and witnesses:

- When someone has been charged, the WCO will inform all victims and witnesses of the outcome of the first hearing and what will happen next.
- WCOs will keep victims and relevant witnesses informed of changes to the defendant's custody status or bail conditions which are of relevance to them.
- At the end of the case, the WCO will inform all victims and witnesses of the final result and, where appropriate, the sentence.
- WCOs will keep victims and witnesses informed of cases discontinued (CPS also has a responsibility to explain the reasons for discontinuing or substantially altering charges to victims under a separate commitment).
- WCOs will also be responsible for keeping victims and witnesses informed of the progress and outcome of any appeal.

In addition:

- **victims** will be informed of the date and outcome of all criminal court hearings (paragraph 6.4 of the Victims' Code).

- WCOs will also agree with **victims** the frequency of contact they would like in relation to being kept informed about the progress of their case (paragraphs 6.4 and 6.7 of the Victims' Code).

Victims and witnesses required to attend court

For those victims and witnesses required to attend court, it is a minimum requirement for the following **additional** service to be provided to victims and witnesses:

- WCOs will inform victims and witnesses of the trial date and the location of the court at which the case will be listed. The witness warning will also inform witnesses that they can contact the WCO should they wish to discuss any concerns they may have about attending court.

In addition:

- WCOs will contact **victims** to explain the purpose of the needs assessment and to give them the option of having a needs assessment to identify any support and assistance they may require to attend court (paragraph 6.2 of the Code). This includes the need for special measures.

Victims and witnesses with support needs

Some victims and witnesses will have additional support needs, either because they have been identified as vulnerable or intimidated or because they have other particular needs (greatest need).

The following are examples of those who may be considered to be in greatest need of additional support:

- repeat victims;
- victims who are defined as vulnerable or intimidated for the purpose of the Victims' Code and automatically entitled to the enhanced service;
- witnesses who have been identified as vulnerable or intimidated under the Youth Justice and Criminal Evidence Act 1999;
- bereaved families – defined as intimidated under paragraph 4.9 of the Victims' Code and automatically entitled to the enhanced service;
- victims of domestic abuse or a sexual offence – also defined as intimidated under paragraph 4.9 of the Victims' Code;
- victims of racially/religiously aggravated offences;
- victims in cases with a homophobic/transphobic element;
- victims of offences aggravated by hostility based on the victim's disability;
- victims of crime motivated by hostility based on age; and
- elderly victims and witnesses.

For these victims and witnesses, it is a minimum requirement for the following additional service to be provided:

- WCOs will inform victims and witnesses required to attend court of the outcome of special measures applications relevant to them. WCOs will

also let the court know of any particular needs that these victims and witnesses may have.

In addition:

- WCOs will explain the meaning and effect of the sentence to **victims** and will respond to any questions the victim may have. If the WCO is not able to answer the questions asked by the victim, the WCO will refer the victim to the CPS (paragraph 6.8 of the Victims' Code).
- If there is a significant amendment to the sentence originally passed, the WCO will notify the **victim** of this amendment (paragraph 6.9 of the Victims' Code).

A minimum requirement is for victims and witnesses to be provided with the information at the latest by the end of the working day following the relevant court hearing.

It is also a minimum requirement that victims and witnesses be provided with outcome and sentence information in a timely fashion and that they are thanked for their contribution to the case and are offered support from the relevant support agency.

COMMUNICATIONS

EARLY GUILTY PLEA CASES (AT FIRST HEARING)

WCOs will notify all victims and witnesses (with the exception of those who are considered to be vulnerable, intimidated or in greatest need) of the result and final outcome, maximising the use of e-mail where ever possible. If the police officer has not provided the e-mail address as part of the initial needs assessment, the WCO will use the telephone as the default method of communication.

WCOs will communicate with victims and witnesses considered to be vulnerable, intimidated or in greatest need by their preferred means of contact. If the police officer has not provided their preferred means as part of the initial needs assessment, the WCO will use the telephone as the default method of communication.

APPEALS AGAINST SENTENCE

As above.

NOT GUILTY PLEA CASES AND APPEALS AGAINST CONVICTION

All victims and witnesses

In Not Guilty plea cases and appeals against conviction, the WCO will telephone **all** victims and witnesses to notify them of the outcome of the first hearing. The telephone call is also an opportunity for the WCO to identify if the victim or witness is vulnerable or intimidated or has any particular support needs.

NOTE: WCOs must ensure that before telephoning the victim or witness it is safe to do so particularly where, for example, the offender is living in the same household.

Following the first telephone call, WCOs will communicate with victims and witnesses (other than those who have been identified as vulnerable, intimidated or in greatest need) by e-mail where ever possible. This will include the sending of the witness warning letter, which will be attached to the e-mail.

If the police officer has not provided the e-mail address of the victim or witness as part of the initial needs assessment, the WCO will use the telephone as the default method of communication.

If the victim or witness does not have an e-mail address, the telephone is the default method of communication.

Victims and witnesses considered to be in greatest need

When the WCO initially contacts a victim or witness who is considered to be vulnerable, intimidated or in greatest need to update them on the outcome of

the first hearing, the WCO will ask the victim or witness how they wish to be updated on progress in the future (their preferred means of contact).

Although the needs assessment should be conducted by telephone, the victim or witness may otherwise wish to be communicated with by letter or by e-mail.

NOTE: Before sending a letter or e-mail to these victims and witnesses, the WCO should take care to ensure that this is a safe method of communication.

Careful consideration should also be given when communicating with young witnesses.

There will be occasions when WCOs cannot make contact with the victim or witness by their preferred means of contact. In these circumstances WCOs will need to use their judgement on deciding at what stage to use an alternative means of contact. This may involve seeking advice from the officer in charge or asking an officer to make contact.

NEEDS ASSESSMENTS

The initial needs assessment completed by the police officer provides a summary of the victim and witness needs and provides sufficient information to trigger relevant support. The purpose of the detailed needs assessment conducted by the WCO is to build on the information already provided on the reverse of the MG11 to ensure that the needs of individual victims and witnesses are met.

Reforms since WCUs were introduced mean that, in most cases, trials are fixed at the first hearing and an early decision made about which witnesses are required to attend court. The original NWNJ Minimum Requirement has therefore been revised to take account of these changes and it is no longer necessary to conduct a detailed needs assessment for all victims and witnesses following a Not Guilty plea.

Victims only

At this point in time, WCUs have a statutory obligation under paragraph 6.2 of the Victims' Code to 'conduct a full needs assessment with **all** victims where a Not Guilty plea is entered'. It matters not whether they have been identified as being in greatest need of support or whether or not they are required to attend court.

Under paragraph 3.8 of the Victims' Code, 'a victim of crime.....may opt out of receiving services under the Code, or request that the obligations that they qualify for be modified, at any time'. The Code goes on to say that 'a victim of crime..... may choose to opt back in to receiving services at any time while the case is under active investigation or receive an update if the investigation has been concluded'. **Victims who are not willing to support the prosecution process and who are therefore reluctant to engage with the WCUs are not considered to have opted out of receiving services for the purposes of delivering these minimum requirements.**

Witnesses in greatest need

Following a Not Guilty plea, WCOs will contact those victims and witnesses who have been identified as vulnerable, intimidated or in greatest need to discuss any needs they may have. This 'mini' needs assessment should be conducted at the same time as the WCO is speaking to the victim or witness to update them on the outcome of the first hearing.

The following lists what should be covered as part of this assessment:

- any intimidation concerns;
- identification of any special needs including special measures; and
- referral to Victim Support or other specialist support agency if appropriate

Should these victims and witnesses then be asked to attend court, the WCO will, upon receipt of the List of Witnesses to Attend Court (LWAC), contact them again to conduct a follow-up needs assessment, the purpose being to ensure that they are suitably supported in giving their best evidence.

The follow-up needs assessment with the victim or witness will explore a range of issues, which may influence their attendance. These include:

- any intimidation concerns;
- identification of the need for special measures;
- whether a Victim Personal Statement (VPS) has been taken or the **victim** wishes to update their existing VPS;
- issues in relation to getting to court;
- what to expect on the day;
- the offer of a pre-trial visit;
- referral to a specialist support agency if required; and
- any employment concerns (for example, self-employed, reluctant employer).

Both stages of the needs assessment will be conducted by telephone. Only in very exceptional circumstances should a postal needs assessment be sent, bearing in mind that the victims and witnesses for whom a needs assessment is being conducted have been identified as vulnerable or intimidated or as having particular support needs.

Good practice is for LWACs to be provided to the WCU within 24 hours of the Not Guilty plea hearing. This allows for the detailed needs assessment to be conducted at the same time as updating the victim or witness on the outcome of the hearing.

Other witnesses

WCOs will ask witnesses who are required to attend court to give evidence but who do not have any particular support needs, to contact the WCO should they wish to discuss their concerns about attending court. There is no requirement for the WCO to conduct a detailed needs assessment for these

witnesses unless the WCO thinks it is appropriate to do so. The offer to discuss their concerns will be made as part of the witness warning process.

SUPPORT/CONTACT DIRECTORY

A minimum requirement is that Areas develop and maintain on an ongoing basis a comprehensive support/contact directory. The directory will outline a range of options that will be used by the WCOs to provide tailored interventions to address the needs of victims and witnesses identified in the follow-up needs assessment.

The development of a local contact directory is acknowledged as the best way to secure speedy access to the support people need. By recording the contact details of support agencies in one accessible place, WCOs have immediate access to a wide range of agencies and organisations that can help.

We must be sure that the referral agency is properly run and properly vetted. This is both a safety issue and a practical issue. It is an issue of safety because a referral may result in access to a vulnerable person. It is a practical issue as there is a need to check that the agency still exists and runs the service required. Funding for many small support agencies is captured on a year by year basis, and some organisations fall because they cannot access the funding needed to continue.

PERFORMANCE MANAGEMENT

A minimum requirement is that Areas use WMS or other equivalent police IT systems to monitor performance locally.

The use of an effective performance management regime allows for management of individual performance and the identification of process and system issues.

Annex A

Type of case	Minimum requirements - information provision
Not Guilty plea entered at first hearing	<p>All victims and witnesses informed of outcome of first hearing and what will happen next</p> <p>Victims and relevant witnesses kept informed of changes to defendant's custody status or bail conditions of relevance to them</p> <p>Victims to be updated as to progress as agreed with WCU in line with Victims' Code</p> <p>Witnesses to be informed of outcome of special measures applications relevant to them</p> <p>Victims and witnesses required to attend court are warned, informed of trial date and location of court at which the case will be listed</p> <p>All victims and witnesses informed of final result and sentence (where appropriate)</p> <p>Eligible victims who consent are referred to NOMS under the Victim Contact Scheme</p>
Appeals against conviction to the Crown Court	<p>Victims and witnesses to be notified that an appeal has been lodged and what will happen next</p> <p>See above for information provision relating to NG plea cases</p>
Appeals against sentence to the Crown Court	<p>Victims and witnesses to be informed that an appeal has been lodged. They will then be informed of final result</p>
Appeals to Court of Appeal	<p>Victims and witnesses informed that leave to appeal has been granted and of final outcome</p> <p>Victims given option of being kept informed of progress in the interim, as agreed with WCO</p>
Guilty pleas indicated at first court hearing	<p>Victims and witnesses informed of outcome of first hearing and what will happen next. They will then be informed of final result including sentence where appropriate</p>
Cases discontinued	<p>Victims and witnesses informed of discontinuance</p>