

Victims and Witnesses

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Policy Statement

Summary

West Yorkshire Police will deliver a level of service to the public that meets their needs and expectations and ensure that those who are unfortunate to be victims or witnesses of crime are provided with support in compliance with the Victims' Code of Practice and the Witness Charter.

This policy explains the Force's responsibilities around the Victims' Code and obtaining consent where appropriate to refer victims to Victim Support, and the use of the Victim Personal Statement Scheme. It also covers the use of special measures and intermediaries to enable vulnerable victims and witnesses to give their best evidence, and how as a Force it is our duty to ensure victims of crime are told about the ways they can apply for compensation.

The policy also covers how the Force will issue witnesses summonses and when and how to issue conduct money.

Scope

This policy applies to all police officers, special constables, police community support officers (PCSOs) and police staff.

The Code of Practice for Victims of Crime (Victims' Code)

Principles

- The Victims' Code sets out the services and minimum standards that must be provided to victims of crime by organisations, this is enshrined within 12 rights. Rights are applicable to victims of all criminal offences.
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Responsibilities (All Officers and Staff)

- The approach of every single officer and staff member matters. Everyone in policing has a professional and personal duty to victims as part of their core role.
- All employees are responsible for:
- Providing all victims with the Victim Contact Leaflet at the first point of meaningful contact i.e. upon commencing an investigation. This applies to all investigations, including:
 - Telephone investigations;
 - Investigations in which an officer or staff member attends in person to obtain crime details from a victim; and
 - Investigations which are finalised at first contact.
- All victims of crime must be provided with a Victim Contact Leaflet in paper or electronic format. The Victim Contact Leaflet can be accessed.

- Informing victims of the Victim Support service, ascertaining if they wish to be referred to Victim Support and referring accordingly unless the victim declines. This must be recorded on the Niche OEL, using the appropriate FCMU or Needs Assessment template, within **two working days** of a crime being reported.
- Informing the victim when key decisions on the investigation are made and, where applicable, explain the reasons within **24 hours** of a suspect being:
 - Arrested;
 - Interviewed under caution;
 - Released without charge; and
 - Released on police bail or under investigation or if police bail conditions are changed or cancelled.
- Informing the victim of a decision not to investigate their case and explaining this decision within **24 hours**.
- Informing the victim of an out of court disposal being given to the offender within **24 hours** and explaining the reasons for this decision.
- Informing the victim of a police or Crown Prosecution Service decision not to prosecute the suspect within **24 hours** and explaining:
 - The reasons for the decision;
 - How to obtain further information;
 - How to seek a review and make representations under the National Police Chiefs' Council or Crown Prosecution Service Victims' Right to Review Scheme; and
 - How to be referred to a support service.
- Informing the victim if a suspect is charged with an offence(s) within **24 hours** and providing the following information:
 - The offence the suspect has been charged with;
 - The date, time and location of the first hearing; and
 - Where the suspect is released on police bail to appear in court, any bail conditions and any changes to these bail conditions.

Complaints

- If a victim believes that they have not received any of their rights under the Victims' Code, they can make a complaint, which will be handled in accordance with the force policy on Public complaints and Persistent and Unreasonable complaints.
 - If the victim remains unsatisfied with the outcome, they can ask their Member of Parliament to refer their complaint to the Parliamentary and Health Service Ombudsman. The Ombudsman will consider any complaints referred to them and, where appropriate, undertake independent investigation.
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Witness Care Unit (WCU) responsibilities

The Witness Care Unit (WCU) are responsible for:

- Contacting all victims and witnesses upon receipt of the case to advise them who their dedicated Witness Care Officer is and contact information;

- In sensitive cases, WCU will liaise with OIC and partners agencies to establish a communication strategy with vulnerable victims;
 - Informing the victim of the date of all court hearings within one day of receiving the information from the court;
 - Notifying the victim of the outcome of all pre-trial hearings and the trial verdict within one day of receiving the information from the court;
 - Carrying out a full needs assessment with all victims who may be called to give evidence;
 - Notifying the victim of fail to appear warrants then subsequently any arrest within one working day if 'vulnerable or intimidated' or four working days in all other cases;
 - Explaining the meaning and effect of any sentence given to the offender in their case and responding to any questions; and
 - For schedule 15 offences, the WCU will refer victims to the National Probation Service Victim Contact Scheme.
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Victim Support

Principles

- Victim Support are an independent charity who offer a free, confidential service to anyone affected by crime. Dedicated to supporting victims of crime and traumatic incidents, they provide a specialist service, helping people to cope and recover to the point they feel they are back on track with their lives.
 - All victims must be offered the services of Victim Support and their choice must be recorded, on the Niche OEL, using the appropriate FCMU or Needs Assessment template. Unless the victim declines, a referral will automatically be sent to Victim Support when the template is added.
 - Victims of crime can self-refer to Victim Support even if they have not reported their crime to the police.
 - To contact Victim Support, the Force Liaison Officer must be the first point of contact.
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Victim Personal Statement Scheme

Principles

- It is a requirement under the Victims' Code that victims of crime must be offered the opportunity to provide a Victim Personal Statement (VPS).
- The VPS gives victims an opportunity to tell the criminal justice agencies and the magistrate or judge about the effect a crime has had on their lives.
- It also helps the criminal justice agencies to understand fully the impact a crime has had on the victim so they can make decisions about the case.
- The VPS is **optional**, and no pressure should be placed on victims if they choose not to make one. However, it is important that a victim understands the benefits of making one. It can be used to:

- Explain the effect that the crime is having (or has had) on the victim's life physically, emotionally, financially or in any other way;
 - Express concerns about intimidation from the suspect;
 - Express concerns about the suspect being granted bail;
 - Ask for support from Victim Support; and/or
 - Ask for compensation.
 - The VPS statement forms part of the case papers so if the case goes to court, the VPS will be shared with the defendant's solicitor.
 - The VPS can be taken:
 - At the same time as the main witness statement;
 - At a later date at the victim's request; or
 - On both these occasions.
 - Further guidance about the VPS can be found.
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Impact Statement for Business

Principles

- Under the Victims' Code, all business or enterprises (such as charities) that have had criminal offences committed against them are entitled to make an Impact Statement for Business (ISB).
 - The ISB allows the business to explain how a crime has affected it, for example, direct financial loss, operational disruption or reputational damage. It is intended to provide the business with a voice in the criminal justice process. Where it considers appropriate, the court can take account of the ISB when it decides what sentence to impose on the offender(s)
 - The ISB should be discussed with the nominated representative for the business / enterprise following a report of a crime.
 - The ISB may be made at the same time as a witness statement or Victim Personal Statement (if applicable) or completed at a later date.
 - Once a statement is made, it cannot be changed but additional or supplementary statements can be made if new information comes to light.
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Victim – Immigration Status

Principles

- When someone reports a crime the police will always, first and foremost, treat them as a victim.
- There are occasions when officers will need to carry out police database checks or enquiries with other agencies regarding people involved in reporting a crime. This could be for a number of reasons, such as informing officers on how best to protect a victim or to help progress an investigation.

- If an officer becomes aware that a victim of crime is suspected of being an illegal immigrant they will:
 - Treat them as a victim of crime;
 - Contact immigration enforcement officers (making it clear the person is being treated as a victim by the police) prior to taking enforcement action regarding the victim's immigration status;
 - Prioritise the protection of the victim; and
 - Investigate the reported crime.
 - Officers will never check a database only to establish a victim's immigration status.
 - The Immigration Service is aware of this guidance and will provide advice on how best to deal with immigration matters under these circumstances.
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Restorative Justice (RJ)

Principles

- Restorative Justice (RJ) puts victims at the heart of the justice process; it gives them a chance to ask the offender any questions that they have and also allows them the opportunity to get anything that they want to say about the impact of the crime across to the perpetrator.
- Restorative Justice can be used for any type of crime, including survivors/victims of domestic abuse, sexual offences, hate crime and other serious crime, and at any stage of the criminal justice system, including alongside a prison sentence in line with the victims code.
- Restorative justice can be offered to victims where the case has had no further action taken or where the offender has been found not guilty.
- It is important that no victim/offender should be excluded from the offer of restorative justice.
- RJ is only available where there is an identified suspect.
- The Office of the Police and Crime Commissioner / Deputy Mayor's Office have commissioned an RJ provider. The provider will make contact with the victim and offender where the relevant criteria are met, as set out below. The RJ facilitator will assess all cases referred for suitability and will arrange and facilitate any meetings agreed.
- RJ is available to Adults and Youths, however only cases with an ADULT perpetrator are dealt with by the commissioned external agency; YOUTH perpetrators are dealt with as part of the YOT process.
- The criteria for an RJ referral are:
 1. All victims are to be informed about RJ by the OIC immediately a suspect has been interviewed about the offence; the OIC will inform the victim that their details will be passed to an external RJ provider who may contact them to discuss the benefits of RJ.
 2. As part of the interview process the OIC will inform the suspect that their details will be passed to an external RJ provider who may contact them to discuss RJ.

3. At finalisation, the victim and offender will be informed again that their details will be passed to an external RJ provider who may contact them to discuss RJ.
 4. Victim and Offender may opt out of the RJ process at any time, by informing the OIC that they do not wish to be referred.
 5. Where a victim has not opted out as described in point d, then a dedicated RJ condition may be included with any suitable Out of Court Disposal, requiring the suspect to discuss RJ with the external provider regardless of whether the suspect has opted out.
 6. Any Victim or Offender who has opted out may opt in again by asking the OIC.
 7. The OIC will record Victim and Suspect opt in/out status using a dedicated section of the VcoPs OEL templates on Niche.
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Video Interview Suites and Portable Equipment

Principles

- Interviews with victims or witnesses can be carried out in video interview suites if this helps in achieving the best evidence.
 - A suite must be booked via the computerised database or portable equipment which is available must be used, in taking into account if the victim or witness cannot travel or attend, e.g. if they are in residential home, nursing home or hospital.
 - It is the responsibility of the officer to take to the suite and complete the appropriate paperwork for the interview.
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Special Measures

Principles

- As a Force we will assist vulnerable or intimidated witnesses by ensuring they can give evidence at court by use of 'special measures' in accordance with Part II of the Youth Justice and Criminal Evidence Act 1999.
- Special Measures could be the use of:
 - Screens around the witness box: A screen is placed around the witness box to prevent the witness from seeing the defendant.
 - Evidence via live link: The witness can sit in a room outside the courtroom and give their evidence via a live television link to the courtroom. The witness will be able to see everything that goes on in the courtroom and those in the courtroom can see the witness via the link. The court can approve the presence of a 'supporter' in the link room where appropriate.
 - Video recorded evidence in chief: The witness's main oral evidence is videotaped and played to the court.
 - Removal of wigs and gowns: The judge and lawyers in the Crown Court do not wear gowns and wigs.
 - Evidence given in private: This is when the public gallery is cleared. It is limited to sexual offences and those involving intimidation.

- Use of communication aids: For example an alphabet board.
- Use of an intermediary: To assist communication.
- Video recorded cross-examination: This is currently being piloted.
- This includes the use of a Registered Intermediary.
- An intermediary must be brought as soon as possible if it is felt that a vulnerable victim or witness might benefit from help with communicating or understanding questions and answers.
- If the services of a Registered Intermediary are required during the investigative process, then prior authorisation and a referral from must be sought from the WCU Manager.
- Special Measures are authorised via application made to the Court by the CPS and it is important that the MG2 (Special Measures application) is fully completed and on the case file at the time the case file is submitted to the CPS. Special Measures are usually applied for at the first hearing at Magistrates, or at the PTPH hearing at Crown Court.
An MG2 'aide memoire' to assist officers completing the MG2 can be found.

Responsibilities (All Officers and Staff)

All employees are responsible for:

- Identifying victims and witnesses that are vulnerable or intimidated and completing an MG2 form, through the appropriate Niche occurrence at the earliest opportunity;
- Whilst vulnerable and intimidated victims and witnesses are automatically eligible for Special Measures, an application must still be made using the MG2. If applying for a victim or witness who is not classed as vulnerable or intimidated, it is important to manage the expectations of the witness as the Court will decide whether or not to allow them.
Seeking the advice at the earliest opportunity from Supervisors, your local Safeguarding Unit or the Witness Care Unit Manager if there is any doubt about whether a witness or victim is vulnerable.

Witness Summons

Principles

- The Force will attempt, a maximum of three times, to personally serve non-urgent witness summonses, including for domestic violence, with more than seven working days to go before the court date and before contacting the WCU and activating the urgent procedure.
- Where the Force are unable to serve the summons before the date of the trial, a summons enquiry form will be completed and returned to the WCU to ensure that the court can be advised as to exactly what efforts have been made to trace the witness and help the court decide whether to issue a warrant.

**Responsibilities
(All Officers and
Staff)**

All employees are responsible for:

- Checking if the summons is for Magistrates or Crown Court. For cases at:
 - Magistrates Court: Refer to the section entitled 'Conduct Money'; and
 - Crown Court: Summonses do not require the offer of conduct money.
 - Reading any accompanying risk assessment and completing Corvus checks if there isn't one attached before attempting to serve the summons;
 - Making enquiries to locate the named witness and serving the summons by personal service. Any other form of service should only be undertaken with the consent of a supervisor or the relevant Witness Care Officer (WCO);
 - Completing the Witness Needs Assessment pro-forma as fully as it reasonably possible at the time of service, and a Form 17 Certificate of Service in Niche through the relevant occurrence;
 - Returning a copy of the Form 17 and the needs assessment to the WCU, in urgent cases liaising directly with the WCU, and where service is unsuccessful and there are 5 days or less to the court hearing and informing the WCO.
 - An enquiry form must be completed if unable to serve the summons.
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Conduct Money – Magistrates Court Cases ONLY

Principles

- This is for Magistrate Court cases only.
 - The Force will offer 'conduct money' at the time the summons is served if witnesses have issues of financial hardship that might prevent them from attending court, in accordance with S97 Magistrates Court Act 1980.
 - When making the 'offer' of conduct money, the witnesses' response must be recorded at the time the witness summons is served.
 - A WEF3 form must be completed when conduct money is issued and this must be passed on to the local Business Support Unit who will then claim the monies back from the Crown Prosecution Service.
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Additional Information

Compliance

This policy complies with the following legislation, policy and guidance:

- APP Investigation
 - APP Prosecution and Case Management
 - Code of Practice for Victims of Crime
 - Youth Justice and Criminal Evidence Act 1999 – Section 18, 19 and 21
 - Magistrates Court Act 1980
 - Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO)
 - Public complaints and Persistent and Unreasonable complaints policy
 - Data Protection Act 2018
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Supporting information

The supporting information for this policy can be accessed.

Further information

Further guidance in relation to this policy can be sought from:

- The Ministry of Justice: Vulnerable and Intimidated Witnesses - Police Service Guide
 - The Crown Prosecution Service - Special Measures | The Crown Prosecution Service ([cps.gov.uk](https://www.cps.gov.uk))
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