

The Witness Charter

***Standards of care for witnesses
in the criminal justice system***

Final Version

August 2007

THE WITNESS CHARTER

About this charter

The Witness Charter has been developed to tell you how you, the witness, can expect to be treated by the police if you are a witness to a crime or incident and subsequently by other criminal justice agencies and lawyers if you are asked to give evidence for the prosecution or defence in a criminal court. It also sets out what help and support you can expect to receive at every stage of the process from all the agencies and lawyers involved, although it does not cover the work of judges and magistrates.

The standards of service set out in the Witness Charter apply to all witnesses, regardless of whether you may also be the victim. If you are also a victim of a crime, you have rights which are set out in full in the Code of Practice for Victims of Crime. Unlike the Code, the Witness Charter is not set out in law and there may be constraints which affect the ability of the various agencies to provide the service. For example, although the care of witnesses is important to them, the principal duty of defence lawyers is to represent and attend to the needs of their client. Agencies and lawyers will seek to comply with the standards, insofar as is practicable and their professional rules allow.

Being a witness

As a witness in an investigation, which may lead to a criminal court case, you are helping to ensure that justice is done and that society is made safer for yourself, your family and friends and the community in which you live. The part you play is crucial to the wider effort to tackle crime and poor behaviour and to build a culture of respect. When you give evidence as a witness, you are directly contributing to building a safe and strong community. Family members and friends who accompany a witness to court, helping to make them feel more comfortable about giving evidence, are also contributing to this important role.

If a suspected offender is identified, and the case proceeds to a criminal court, you may be asked to give evidence for the prosecution or defence in court if you know:

- something about a particular crime, incident or dispute; or
- one of the people involved in a case (you may be asked to be a character witness).

In either event, your evidence can be crucial to securing the conviction of the guilty or the acquittal of the innocent.

Standard 1: Ensuring fair treatment

As a witness you will be treated fairly and with respect according to your needs irrespective of race, religion, background, gender, age, sexuality or any disability.

Standard 2: Reporting a crime or incident

The police will ensure that the details of how to contact them and the arrangements for how to report a crime or other incident are widely publicised. If you report a crime or other incident, the police will:

- ensure that they properly understand what you are telling them and that you understand what they are telling you;
- explain how they are going to deal with the matter;
- provide you with an indication as to how long this will take; and
- provide you with a reference or crime number and a contact for further enquiries.

Standard 3: Initial needs assessment by the police

If you are providing a statement to the police, this will include an initial assessment of your needs as a witness. The initial needs assessment will cover:

- what your preferred means of contact is, and when you can most easily be reached;
- what language and communication needs you may have as a witness;
- what other needs you may have, including any help you may need to give evidence in court; and
- what dates you are unavailable to attend court.

This information will be used to decide how the investigation of the case will proceed and to ensure that arrangements are made to meet your needs if you are called to give evidence in court. It will be passed to the defence lawyer if you are to be called as a witness for the defence and to a Witness Care Unit if you are to be a witness for the prosecution.

Standard 4: Initial identification as a vulnerable or intimidated witness

If you are a prosecution witness, the police will initially identify whether you may be a vulnerable or intimidated witness and will seek your views on measures that might help you. If you are a defence witness, the defence lawyer will seek to provide you with as much assistance as their professional rules allow.

This includes measures to help you give your best evidence in court, such as the use of a live TV link or a screen around the witness box. It may also include the use of an intermediary if you are a vulnerable witness with a communication difficulty. It is ultimately for the Court to decide whether such measures can be allowed.

Standard 5: Making a statement

After you have contacted the police about a crime or incident or have been approached by them, the investigating officer will decide whether to ask you to provide a statement. Making a statement is voluntary although you may still be asked to give evidence if you do not make one. If you do agree to make a statement, practical arrangements will be made for it to be taken as soon as possible. This may be in your home, or at a police station, or at another place of your choice.

If you are identified as a potential defence witness, you may be asked to make a statement to the defendant's lawyer. In certain circumstances, the police may also ask you to make a statement.

The police and the defence lawyer will seek to arrange an interpreter for you if necessary.

Before you make your statement, the person taking it will explain the purpose of the statement, consider what help you may need to make it and explain what will happen next. If you provide a statement, you may be required to give evidence at court for either the prosecution or defence.

When you make a written statement, the person taking it will:

- ensure that they understand what you are telling them and that this is accurately recorded;
- allow you to read it to check that it is an accurate record, or ask someone else to read your completed statement back to you;
- change any inaccuracies you point out;
- add any further information you want included; and
- ask you to sign your statement to confirm that you agree with what has been recorded in it.

All child witnesses, and some other witnesses, are able to make a statement in the form of a video-recorded interview. In such cases, the person taking it will ensure that the recording is of sufficiently good quality for it to be used in court as evidence if necessary. You may still be required to attend court for the purposes of cross-examination.

Standard 6: After a statement is given

After giving your statement, the police will give you a contact telephone number; and a leaflet explaining what will happen next. The police will ask you if you would like to be referred to the Witness Service for further support, should the case progress to court.

If you have given a statement to a defence lawyer or their agent, they will inform you of what will happen should the case progress to court and may also refer you to the Witness Service unless you instruct them otherwise.

Once you have signed your statement, the content cannot be changed. However, if you do need to alter or add anything later you can make a further statement.

Unless it is relevant to the case, your address, or other personal details which might lead to the identification of your address, will only be shared with criminal justice agencies and relevant support organisations. You will be asked for your consent for this information to be shared unless it is a legal requirement.

Personal details about defence witnesses have to be shared with the defendant but they will only be shared more widely with your consent.

If your case does proceed to court, you will be given the opportunity to refresh your memory of what you said in your statement or video-recorded interview.

Standard 7: Being kept updated on progress during the investigation of a serious criminal offence

If you have made a statement to the police as part of an investigation of a serious criminal offence and the police have told you that you are likely to be called to give evidence in court, they will seek to update you at least once a month on the progress of the case until the point of closure of the investigation or the point at which someone is charged, summonsed or dealt with out of court.

If the investigation is still ongoing after six months, the police will seek to agree with you the frequency of future updates. You can choose to opt out of receiving an update on progress should you want to do so at any stage.

If you have been told that you are not likely to be called to give evidence in court, or you have not made a statement as part of an investigation of a serious criminal offence, the police may not regularly update you but they will seek to provide you with a means of contact so that you can find out what stage the investigation has reached.

Standard 8: Action on intimidation

The police will seek to identify if you are being intimidated or are at risk of intimidation. If you think that you are at risk of intimidation, you should bring this to the attention of the officer in the case and they will provide you with advice or refer you to an appropriate agency that can assist. The police will provide you with details on how you can contact them.

If you are a defence witness, the defence lawyer will report any actual or feared intimidation to the police, providing this does not conflict with their professional rules. In those circumstances you should contact the police.

You should always dial 999 if you think you are in immediate danger.

It is a specific offence to intimidate a witness before and during a trial and up to a year after a trial is finished. If you believe you have been the subject of intimidation as a result of your involvement in the case, then you may have been a victim of a criminal offence. You should immediately bring this to the attention of the police who will carry out an investigation and take any appropriate action, including the consideration of measures to ensure your safety.

If you are a prosecution witness who has suffered or is at risk of intimidation:

- the police will inform the prosecution if you have concerns about the grant of bail or if the defendant has a history of witness intimidation; and
- the charging prosecutor will consider what additional needs you have at the time the defendant is charged and throughout the period up to trial.

Standard 9: Being kept updated on progress after charge

If you are a prosecution witness to any offence, the police will inform you:

- when the defendant has been charged;
- whether the defendant has been released on bail to attend court or held in custody until the first court appearance; and
- what relevant bail conditions apply.

Your Witness Care Unit will keep you fully informed of the progress of your case once the defendant has been charged and will update you on progress by the end of the working day after the unit has received this information. You will be given the name of an individual Witness Care Officer who will be your single point of contact for all enquiries or concerns that you have.

If the case proceeds to court, your Witness Care Unit will, if you so wish, inform you of the outcome of:

- any decisions made by the Court to release the defendant on bail (including any relevant conditions) or remand in custody between court hearings;
- all relevant court hearings; and
- any application for special measures to help you give evidence in court.

Standard 10: Follow-up needs assessment

If you are a prosecution witness in a case that is going to trial, the initial assessment of your needs will be followed up by your local Witness Care Unit.

This follow-up assessment will explore a range of issues that may influence your attendance at court and your overall satisfaction with the process, including:

- whether you have any concerns regarding intimidation;
- what language or communication requirements you have, including if you have any difficulties with reading;
- whether you have any medical conditions or physical disabilities which would affect your ability to attend court, including hearing or eyesight problems;
- whether you have any religious or cultural needs;
- whether you need help with childcare or other dependants;
- whether you would like a visit to the court before the trial;
- what transport needs you have to help you get to court on the day; and
- whether your employer is happy for you to attend court.

This also allows the Witness Care Unit to update your preferred means of contact and the dates you are unavailable to attend court.

It is also a further opportunity to identify whether you are or may be a vulnerable or intimidated witness and what special or other measures would help you give your best evidence in court.

Standard 11: Meeting your needs

If you are a prosecution witness, your Witness Care Unit will provide a single point of contact and tailor arrangements for your attendance at court to meet your personal circumstances. It will also maintain and update a contact directory of support organisations in your area and refer you to those organisations that can help meet your needs.

If you are a defence witness, the defence lawyer will seek to provide you with similar support and information.

If you need help to give your best evidence in court you may be eligible for assistance from a range of support and special measures. You will qualify for this help if you are a witness under the age of 17, if you suffer from a mental or physical disorder, have communication needs, or if you are the victim of a sexual offence. You may also be eligible if you feel so intimidated about giving evidence that it affects your ability to do so.

The police, Witness Care Unit, or the prosecution or defence lawyer will explain which special measures may be available to you and ask for your views about which, if any, of the special measures you would like to have.

If you are eligible for special measures for giving evidence, the prosecution or defence, having heard your views, can make an application to the court for the use of one or more measures. The Court will consider your views and whether the measure will help you to give your best evidence before deciding whether to allow its use or not. If you are a defence witness, the views of the defendant will also be taken into consideration.

Standard 12: Taking account of your availability

In setting the trial date, the Witness Care Unit or defence lawyer will ask the Court to seek to meet your needs as a witness, including trying to ensure that you are not required to attend court on a date on which you have an important commitment (e.g. hospital appointment, pre-booked holiday), unless there are exceptional circumstances.

If the case is adjourned, a new date will be set that is, as far as is possible, convenient to all parties. As a witness, you can help by informing those involved of any changes to your availability as early as possible.

If someone, such as your employer or a family member, is reluctant to let you make yourself available to attend court, an application can be made by the prosecution or defence lawyer to the Court for the issue of a witness summons, which you can use to show that you are required to attend court. A witness summons may also be used if a witness is unwilling to give evidence.

Standard 13: Giving priority to cases involving vulnerable witnesses, including child witnesses

If you are a vulnerable witness, including if you are a child witness, or your case involves a vulnerable witness, the prosecution or the defence lawyer will ask the Court to give the case priority in respect of times and dates of hearings.

The defence lawyer may not ask the Court to give the case priority if it is not in the best interests of the defendant.

Standard 14: Notice of trial date and minimising unnecessary attendance

You will not be required to attend court for every hearing.

If you are a prosecution witness, your Witness Care Unit will inform you of when you need to attend court to give evidence at the trial by the end of the working day after receiving this information from the Court. If you are a defence witness, you will be informed of when you need to attend court by the defence lawyer.

All those involved in your case will make every effort to ensure that you are only asked to attend court on the day on which you are required to give evidence. On occasion, trials and hearings will be unable to take place on the day they are planned and you will be notified of any cancellations and adjournments.

You will be told:

- if a trial will not take place on the date that has been set;
- the reason for any adjournment of your case, if appropriate; and
- when your case is likely to be heard.

Standard 15: Information about the court process

The police, Witness Care Unit or defence lawyer will give you information to help you prepare for attending court. The Witness Care Unit or defence lawyer may give you a DVD explaining the court process or you can collect a copy from the Witness Service based at court. It can also be downloaded from www.direct.gov.uk/goingtocourtvideo.

The police, Witness Care Unit or defence lawyer can give you contact details for the Witness Service. If you are a child witness and are giving evidence, the police, Witness Service or other supporter will give you the Young Witness Pack and will seek to explain the content to you.

You can also obtain information on the internet, including an explanation of the process, from www.cjsonline.gov.uk or www.hmcourts-service.gov.uk.

Standard 16: Information about the court and its location

If you have to go to court, the Witness Care Unit or defence lawyer will inform you of, or help you find out:

- the court opening hours;
- the location of the court – a map showing where the court is with information about public transport and car parking;
- the facilities available at court, including food and drink, toilets, telephones, separate waiting areas and arrangements for people with disabilities;
- the support available at the court;
- arrangements for claiming expenses; and
- a helpline telephone number so you can get further information.

This information will also be available from court staff, the Witness Service or another witness supporter. It will also be available in information leaflets for prosecution and defence witnesses which may be given to you by the Witness Care Unit or defence lawyer. These leaflets can also be downloaded from www.hmcourts-service.gov.uk.

Standard 17: Visiting the court before trial

As a prosecution or defence witness, you will be offered the opportunity to visit the court before the trial. These pre-trial visits will be arranged by the Witness Care Units, defence lawyers and the Witness Service or other witness supporter in conjunction with the court staff. During your visit you should, where practicable, be given the opportunity to practise using the live TV link facility if the use of this measure has been granted.

Standard 18: Attendance of family and friends

Where the layout of the court permits, court staff will seek to arrange for seats to be provided in the public gallery for anyone accompanying you to your hearing, provided that you ask them to do this before the day itself. However, there is no public gallery in a youth court. Your family and friends can also use the public facilities at court, which are usually open to everyone.

If you are a witness and are accompanying another witness to court in the same case, you will be unable to sit in the public gallery until after you have given your evidence.

Standard 19: Support at court

As a prosecution or defence witness attending court, you can receive help and support from the Witness Service, which has staff and volunteers in every Crown Court and magistrates' court in England and Wales. The prosecution or defence may also arrange other support for you, with the permission of the Court. This may include specific help with arrangements for your appearance in the witness box or in the live TV link room.

The Witness Service will seek to:

- provide an independent, impartial and confidential service and treat you with respect and understanding;
- provide information on court procedure and lay-out;
- provide any practical assistance you require e.g. help with expenses forms;
- answer any questions you have or refer you to someone who can; and
- support you in coping with any anxieties you might have about appearing in court.

The Witness Service, where permitted by the court, can also accompany you into the courtroom or the live TV link room.

The Witness Service is a free and impartial service and will not offer an opinion on the case, discuss the case or the evidence before the trial or provide legal advice.

Standard 20: Court facilities and signage

When you come to court, you should find:

- polite and helpful court and Witness Service staff wearing identification badges;
- clear signs to help you find your way around; and
- a clearly signposted Witness Service or other witness supporter reception point.

All court buildings will:

- publicly display a list of cases to be heard that day;
- have functional, accessible and clean toilet facilities; and
- have clean and comfortable waiting areas.

In addition, courts will either have refreshment areas or court staff will tell you what arrangements can be made to obtain refreshments.

Standard 21: Safety at court

Court staff will seek to provide as safe an environment as possible for you and all other court users.

Court security officers are based in all Crown Court centres and most magistrates' courts and will seek to monitor everyone, including witnesses, defendants and supporters, who seeks to enter the court building. They have the power to exclude, remove or restrain individuals who may disrupt court business or pose a threat to the safety of other court users.

Court staff will seek to ensure that the defendant, defence and prosecution witnesses and their respective families and supporters are kept separate throughout the court building. If you are a vulnerable or intimidated witness, court staff will seek to review entrance and exit routes to limit the opportunity for you to come into contact with the other parties.

Standard 22: Lawyers introducing themselves

If you attend court as a witness, the relevant lawyer will, where practicable, seek to introduce themselves to you on the day and will seek to answer any practical questions you have.

Standard 23: Waiting rooms and standby arrangements

When you come to court, there should be separate waiting areas for prosecution and defence witnesses (including your family and friends). If there is not a separate area available, other arrangements will be considered for you to wait separately from the other parties and their witnesses and supporters.

Court staff will seek to ensure that all witness waiting rooms:

- are well maintained and clean;
- are secure;
- offer privacy, e.g. have blinds on any windows;
- have reading materials;
- contain suitable toys and reading matter for children of different ages;
- have a means of summoning assistance or making enquiries; and
- have a courtroom lay-out plan on display.

If you are a vulnerable or intimidated witness, you may be able to wait somewhere near to the court until the time you need to give evidence.

It is important that you do not speak to other witnesses about your or their evidence at any stage.

Standard 24: Waiting times at court and being updated on progress

Everyone involved in your case will seek to ensure that, from the time you are asked to attend court and give evidence, you do not have to wait more than two hours in the Crown Court or more than one hour in a magistrates' court. However, there are sometimes delays which are unavoidable.

If you are a child witness who is giving evidence, every effort will be taken to reduce the chances of you being kept waiting to give evidence.

The prosecution or defence lawyer, court staff, Witness Service or other witness supporter will seek to:

- tell you as quickly as possible if your case cannot be heard on the day;
- inform you if you are likely to have to wait longer than expected and the reason for any delay; and
- give you an indication of how long you will have to wait before giving evidence and update you regularly.

Standard 25: Special arrangements for witnesses with disabilities or medical conditions

The defence or prosecution will ask court staff to make provision for any special needs you may have as a result of a disability, medical condition or age, which mean you need help attending court or in giving evidence.

Standard 26: Special measures for vulnerable or intimidated witnesses

If the Court has granted an application for one or more special measures to help you give evidence, court staff will ensure the special measure is available and provide any assistance as required.

Standard 27: Communication aids

You are entitled to give evidence in the language of your choice if English is not your first language.

If you have any language or communication needs, an accredited interpreter, registered intermediary, signer or other assistance will be provided either by the court staff or the prosecution or defence lawyer, provided that this need has been identified in advance.

Standard 28: The witness box

Before the usher calls you into the courtroom and shows you to the witness box, they will ask you how you want to promise to tell the truth. You will be able to promise to tell the truth on the holy book of your religion and court staff will ensure that they handle the holy book in the correct way. Alternatively, if you prefer, you can choose to 'affirm', which is a non-religious way of promising to tell the truth.

You will be expected to give your name in court when you give evidence. Judges, magistrates and court staff will only require you to disclose your address in open court if it is relevant to the case.

While giving evidence if at any point you feel unwell or particularly upset when giving evidence, you should tell the judge or magistrate, who may allow you to pause and have a rest. If at any stage you do not understand a question that you have been asked, you should make this known to the questioner or the judge or magistrate.

Once you have given evidence, you may remain in the court building and can watch the rest of the proceedings in the case from the public gallery if you are aged 14 or over. This does not apply in the Youth Court which does not have a public gallery.

Standard 29: Cross-examination

Cross-examination is an essential element of a fair trial. You may be questioned by another party's lawyer, who will test the evidence you have provided to ensure that it is accurate and that you are being honest, or may put another version of an event to you for your comment. Defendants can represent themselves and, except in certain types of cases, are entitled to cross-examine you.

The lawyer for any party may object to questions that may be put to you, which they will seek to do if cross-examination by another party is considered to be unreasonable, for example, if it is unfair, offensive or oppressive.

Standard 30: Being informed of the result

If you are a prosecution witness, your Witness Care Unit will:

- notify you of the outcome of your case and, if relevant, the sentence by the end of the working day after receiving this information from the Court; and
- explain to you what the sentence means or refer you to the appropriate organisation if you have further questions.

If you are a defence witness, you will be informed of the outcome of your case by the court staff, on request, or by the defence lawyer as far as their professional rules allow.

Standard 31: Appeals

If you are a prosecution witness, your Witness Care Unit will notify you of any appeal against a conviction or sentence and inform you of the outcome passed on appeal. If you are a defence witness, the defence lawyer will seek to notify you as far as their professional rules allow.

The prosecution may ask the Attorney General to review a sentence that they consider to be unduly lenient. If the prosecution decides not to refer a case, having been requested to do so, they will write to the relevant person (or persons) informing them of that decision. Witnesses and any other interested parties are entitled to approach the Attorney General direct, within 28 days of the sentence, setting out the reasons why they think the sentence should be reviewed.

Standard 32: Post-trial support

The Witness Service or other supporter will seek to give you the chance to talk over the case when it has ended and provide you with more help or information, including advice on what help is available if you think you are at risk of intimidation after appearing as a witness.

If you need further help after the trial, the Witness Care Unit, Witness Service or other witness supporter will refer you to relevant support agencies where they are available.

Standard 33: Claiming expenses

In most cases you will be able to claim expenses for costs incurred while travelling to/from court. You may also be able to claim expenses for any loss of earnings while attending court to give evidence.

The Witness Service or defence lawyer will seek to inform you of the procedures for claiming your expenses and what allowances you can claim, and you can ask for help to complete the claim form.

However, if you are a defence witness giving evidence as a character witness, you will not be able to claim expenses unless the Court makes a specific order.

If you are a prosecution witness and, in exceptional circumstances, you require an advance payment to attend court or return home, the prosecuting lawyer will seek to make emergency arrangements.

Standard 34: Complaints

If you are unhappy with the level of service that you have received from any of the criminal justice agencies you can make a complaint in the first instance through the complaints procedure of that service. However, this does not extend to any complaint about the judicial outcome, verdict or sentence.

Agencies and lawyers will always:

- make it clear how to make a complaint;
- treat your complaint seriously;
- try to deal with your complaint as soon as possible;
- tell you how to take a complaint forward if you are not satisfied with the outcome of the initial investigation.

Glossary of Terms

Acquittal

The discharge of the defendant(s) following a verdict or direction of not guilty.

Adjournment

The temporary suspension of the hearing of a case by order of the Court.

Affirmation

The declaration by a witness who has no religious belief, or has religious beliefs that prevent him/her taking the oath, that the evidence he/she is giving is the truth.

Appeal

An application to a higher court or authority for review of a decision of a lower court or authority.

Bail

The release of a defendant from custody, until his/her next appearance in court. This is sometimes subject to security being given and/or compliance with certain conditions.

Charge

A formal accusation against a person(s).

Conviction

When an offender has pleaded or been found guilty of an offence in a court, he or she is said to have been convicted. The conviction then appears on the offender's criminal record.

Cross-examination

The process of challenging in court the evidence given by a witness.

Crown Court

A court where criminal proceedings are commenced before a judge and a jury of twelve. The Crown Court also acts as an appeal court for cases heard and dealt with by the magistrates' and youth courts.

Defence lawyer

The person representing the interests of the defendant(s).

Defendant

A person charged with a criminal offence.

Lawyer

The general term used in the Witness Charter to describe barristers (who usually work in the Crown Court and Appeal Court, or for the prosecuting authority concerned) and solicitors.

Magistrates' court

A court where criminal proceedings are commenced before magistrates or district judges, who examine the evidence and statements put before them.

Oath

A verbal promise by a person with religious beliefs to tell the truth.

Prosecution lawyer

The person who presents the case against the defendant(s).

Remand in custody

The defendant is kept in custody pending further court appearance(s).

Special measures

The various measures that a Court can order to assist vulnerable or intimidated witnesses to give their best evidence in court. These measures include live TV links, video-recorded statements, screens around the witness box and assistance with communication, including the use of an intermediary.

Statement

A written or video account by a witness of the facts and details of a crime or an incident.

Summons

Order to appear or to produce evidence to a court.

Vulnerable or intimidated witness

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

Witness Care Unit

A unit comprising Witness Care Officers, who act as a single point of contact to provide information and support for prosecution witnesses from the point where the defendant(s) has been charged.

Witness Service

A national service provided by Victim Support, a registered national charity. Witness Service staff and volunteers are situated in every Crown Court centre and magistrates' court in England and Wales.