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## SI1317

# Supporting Victims and Witnesses

This Service Instruction is relevant to all officers who have contact with victims or witnesses during the course of their duties.



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## 1. Definition of Victim

A victim is defined in the Victim Charter as:

*“an individual who is a victim of crime. This includes a person who has suffered harm (including physical, mental or emotional harm) or economic loss which was directly caused by the crime.”*

The following people are also to be treated as a victim under the Charter, either instead of or in addition to the victim:

- A family member of the victim, where the victim dies (whether directly as a result of the crime or not). This includes a person who has suffered harm as a result of that person’s death;
- A family member of the victim, where the victim could not reasonably be expected to act for themselves, due to their physical or mental state;
- A representative where the victim dies (whether directly as a result of the crime or not) or could not reasonably be expected to act for themselves, due to their physical or mental state. This would apply where there is no family member to be treated as a victim, the family member cannot be agreed upon or a representative is reasonably considered more appropriate; and

- A parent of the victim (or person with parental responsibility for them) where the victim is a child or young person (under the age of 18). The child or young person will still be treated as a victim in their own right.

## 2. Northern Ireland Victim Charter – a charter for victims of crime

The Victim Charter was launched in January 2015 and advises victims of crime about their entitlements and the standards of service that they can expect to receive from a number of service providers involved in the Criminal Justice System including the PSNI. It gained a statutory footing in November 2015 with the enactment of the Justice (Northern Ireland) Act 2015. Broadly speaking victims are entitled to:

- be treated fairly, professionally, and with dignity and respect;
- be understood and to understand – in their first language if necessary;
- be updated at key stages and given relevant information;

- have their needs considered by service providers;
- be told about available support and bring someone with them to give support;
- apply for compensation (within two years of the incident causing the injury) if they were a victim of a violent crime;
- ask for a court familiarisation visit and be kept separate from the accused as much as possible at court;
- have the opportunity to tell the court how the crime has affected them;
- ask to be told how the offender’s sentence is managed; and
- inform service providers if they are unhappy with their service.

The full [Victim Charter](#) is available.

### **3. Vulnerable and Intimidated witnesses**

Definitions of witnesses who may be vulnerable or intimidated for the purposes of special measures assistance are contained in the Criminal Evidence (N.I.) Order 1999.

Vulnerable witnesses, as defined by Article 4, include all child witnesses (under 18) at time of hearing of the application for special measures. It also includes any witness whose quality of evidence is likely to be diminished because they:

- Are suffering from a mental disorder (as defined by the Mental Health (NI) Order 1986);
- Have a significant impairment of intelligence and social functioning;
- Have a physical disability or are suffering from a physical disorder.

Article 10 makes special provision for a child witness who was under the age of 18 at the time of a video recording of evidence but who has attained the age of 18 by the time of hearing of the special measures application.

Intimidated witnesses are defined by Article 5 as:

*“witnesses whose quality of evidence is likely to be diminished by reason of fear or distress in connection with testifying at court.”*

In determining whether a witness falls into this category, the court must take into account, in particular:

- The nature and alleged circumstances of the offence;
- The age of the witness;

Where relevant:

- the social and cultural background and ethnic origins of the witness
- the domestic and employment circumstances of the witness
- any religious beliefs or political opinions of the witness;

Any behaviour towards the witness by:

- the accused
- members of the accused person's family or associates
- any other person who is likely to be either an accused person or a witness in the proceedings.

Officers should take all reasonable steps to identify and record vulnerability and/or intimidation concerns with a victim (or witness) and explain how special measures may assist them to give their best evidence at Court. Any requirement for special measures should be communicated clearly to the Public Prosecution Service (PPS). In addition, officers must not raise the expectations of witnesses with regard to the granting of special measures and to

advise them that special measures are at the discretion of the court.

#### 4. Special Measures

Special measures may be provided to Vulnerable and Intimidated Witnesses to assist them in giving their best evidence. The Victim Charter states that victims are entitled to ask that a special measures application is considered in their case. However before they are granted a Judge must be satisfied that the use of special measures is likely to maximise the quality of the witness's evidence.

Types of special measures include:

- The use of screens – screens may be made available to screen the witness from the defendant;
- The use of live TV link – the live link will enable the witness to give evidence during the trial from outside the court through a live televised link to the courtroom. The witness may be either accommodated within the court building or in a suitable location outside the court;
- Giving evidence in private (limited to sexual offences and those involving intimidation) –exclusion from the court of

members of the public and the press (except for one named person to represent the press);

- The removal of wigs and gowns;
- The use of video recorded interviews as evidence-in-chief; - a video recorded interview with the witness before trial may be admitted by the court as the witness's evidence in chief;
- Video recorded cross-examination (phased implementation commenced during 2017);
- The use of special communication aids (not available to intimidated witness);
- Communication through an intermediary (available for vulnerable witnesses and defendants);

Officers must:

- Take all reasonable steps to identify vulnerable and intimidated witnesses from the outset;
- Explain the special measures available to those witnesses;
- Provide appropriate evidence in support of the application e.g. statement from the victim or witness, medical report, statement from a social worker if the witness is vulnerable or statement from

a police officer if the witness is intimidated;

- Fully complete the witness care form including any witness particular need e.g. wheel chair access;
- Include all relevant details on the witness care form; and
- Not raise the expectations of witnesses with regard to the grant of special measures and to advise witnesses that special measures are at the discretion of the court.

It should be remembered that some witnesses may be both vulnerable and intimidated. Also not all witnesses with disabilities will necessarily wish to be treated as a vulnerable witness.

Complainants to sexual offences automatically fall into the intimidated witness category as do victims of human trafficking

## **5. Older People**

Older people can be targeted because of their perceived or actual vulnerability. Crimes against older people can take place in a context of abuse, neglect or mistreatment where they live, whether this is in a care home, their own home or

hospital. As with any victim of crime, we must consider the impact of the crime on him or her and the support needs that may arise as a result. Generally officers should deal with crimes against older people in the same way as they will for any criminal investigation. However, additional considerations might include:

- Working in partnership with statutory and non-statutory agencies including the Northern Ireland Adult Safeguarding Partnership (NIASP) which includes Action on Elder Abuse;
- Seeking to obtain corroborating evidence to support allegations of abuse;
- In accordance with the Victim Charter, providing information about Victim Support and the range of specialist services that are available for older victims of crime e.g. Crime Prevention, Women's Aid and Victim Support NI;
- In appropriate cases, conducting interviews in accordance with Achieving Best Evidence guidance;
- Considering the use of a Registered Intermediary if the older person has significant communication difficulties which might hinder their ability to give evidence; and

- Identifying any additional support needs that they may have to inform PPS decisions relating to special measures applications.

## 6. Victims of Domestic abuse

The Police Service of Northern Ireland's Policy is to investigate all reported incidents of domestic abuse in a consistent, robust, proactive and effective manner.

The police role is one of:

- prevention of further violence;
- protection of the victim, children and other vulnerable persons; and
- prosecution of the alleged perpetrator where there is sufficient evidence.

The Domestic Abuse, Stalking and Harassment (DASH) and Honour Based Violence (HBV) risk model has been agreed by the National Police Chiefs' Council (NPCC) as the appropriate model for police officers attending domestic incidents.

First response officers must complete the DASH form for all domestic abuse incidents. They should identify risk factors,

who is at risk and decide what level of intervention is required.

Where a breach of a Non- Molestation Order is detected/reported investigating police should notify the applicant of the breach and any subsequent outcome at court.

A range of support services is available for victims of domestic abuse and details of these are contained on the [NI Direct site](#).

## 7. Hate Crime/Incidents

When an incident or crime has been reported to police by the victim or by any other person and they perceive it as being motivated by prejudice or hate, it will be recorded and investigated as a hate incident or crime. The key priorities for police when dealing with such incidents are:

- To assess and manage the risks to the victim/s and to manage those risks through appropriate interventions;
- To effectively investigate all reported hate incidents in line with investigative standards; and

- To work in partnership with other agencies and organisations to collaboratively address Hate Crime.

A Vulnerability Risk Assessment Matrix (VRAM) will be used to assess the risk and impact of hate and signal crimes/incidents on the victim and the wider community and will provide an audit of the actions taken by PSNI personnel to mitigate further victimisation.

Further guidance on dealing with hate crime/incidents can be found in the PSNI Hate Crime Service Procedure (1/16).

## 8. Victims of serious sexual crime: The Rowan Centre Sexual Assault Referral Centre (SARC) for Northern Ireland

The Rowan provides a one-stop location for all victims, who have experienced sexual assault with a comprehensive and co-ordinated package of care to promote recovery and wellbeing. The centre provides 24 hour assistance, by appointment, through self-referral, third party referral and via the Police Service.

The Rowan is a joint venture between the Police Service of Northern Ireland and the Department of Health. The centre itself is located on the grounds of Antrim Area Hospital.

The Rowan has facilities for a high standard of forensic medical examination and other methods of collecting evidence, such as Achieving Best Evidence (ABE) interviewing facilities. In addition it has the ability to store DNA evidence for up to 7 years with the victim's consent, in line with national SARC guidelines.

Forensic medical examinations, or ABE interviews, of victims of rape or sexual assault should take place at the Rowan unless there is good reason not to.

[Further information on the Rowan Centre.](#)

## 9. Children and Young people

The Criminal Justice (Northern Ireland) Order 1999, as amended by the Justice Act (Northern Ireland) 2011, makes special provision for the gathering of evidence from vulnerable witnesses. Children under 18 years of age are included in the definition of vulnerable.

Where the victim is a child or young person, the best interests of the child or

young person must be a primary consideration and should be assessed on an individual basis. Officers should adopt a child sensitive approach, taking due account of their age, maturity, views, needs and concerns. Depending on the individual circumstances of the case this may be done through contact with the parent or guardian.

Similar to dealing with other vulnerable victims or witnesses there are a number of specific considerations officers should bear in mind when dealing with children and young people. These will include:

- Conducting interviews in accordance with Achieving Best Evidence guidance;
- Working in partnership with statutory and non-statutory agencies;
- Considering the assistance of a Registered Intermediary, especially if the child is under 10 years old; and
- In accordance with the Victim Charter, providing information about Victim Support and the range of specialist services that are available for young people, in particular the National Society for the Prevention of Cruelty to Children (NSPCC) Young Witness service.

## 10. NSPCC Young Witness Service

The NSPCC Young Witness Service provides support and information for children and young people under the age of 18 who may have to give evidence in court, either as a victim or as a witness. The service also aims to help parents and carers support their child through the court process. Services provided include:

- Offer support and information before, during and after a trial. This will include giving the opportunity to see the court before the trial and to practise speaking on the TV-link equipment if that is going to be used;
- Assess the needs of the witness and work with other criminal justice agencies to meet those needs;
- Where appropriate, and with consent, refer to other sources of help and support; and
- Take action to tackle any child-protection issues arising in connection with the case.

Referral to the Young Witness Service is undertaken by the Victim and Witness Care Unit.

Further information on the [NSPCC Young Witness Service](#).

## 11. Victims of Child Sexual Exploitation

Child Sexual Exploitation (CSE) is a form of Child Sexual Abuse. CSE is not a specific criminal offence in itself but it does encompass a range of sexual offences. Children and young people who are abused through CSE face significant risks to their physical, emotional and psychological health and well-being.

A number of agencies, including the PSNI, work together to identify those who may be at risk of being sexually exploited.

Identifying the vulnerabilities and indicators associated with CSE is therefore vital in enabling early intervention in order to prevent, safeguard and protect children and young people.

## 12. Interpretation and Translation services

A victim and/or witness should not be prevented from actively taking part in a police investigation or criminal proceedings due to language difficulties. Where it is apparent that a person does not speak or understand English officers must ensure that interpretation or translation is provided on request and free of charge.

Translation/Transcription is currently provided by Flex Language Services, as well as face-to-face interpreters for non-English speakers. Action on Hearing Loss (AHL) is available for those who are deaf/hard of hearing. Telephone Interpretation Services are provided by thebigword.

### 13. Victim updates

In order to maintain the confidence of victims it is important to keep them fully updated on the progress of any investigation including any significant developments in their case. It is vital that these contact details are correct and any changes should be added to Niche and shared with the PPS as soon as possible.

The Charter outlines what the victim can expect from the police:

- to receive an update, within 10 days, on what police are doing to investigate their crime;
- to receive further appropriate updates at agreed times;
- to contact the police and ask for an update outside of any agreed times;
- to be informed where a suspect has not been identified in connection with the crime; and
- to be informed, without unnecessary delay, about any decision not to proceed with or to end an investigation or to use one of the alternative disposals available to the police and the reasons for this.

If a victim does not understand or speak English they are entitled, on request, to have this information translated into a language that they do understand.

In addition to these specific victim updates, victims should also be informed at other key stages where there is significant investigative activity such as:

- Arrest;
- Charge/report;
- Bail (including any changes to bail status);
- Alternative disposal;
- The discontinuing of investigation;
- New investigator appointed; and
- Case submission to the PPS.

If a non-molestation or other court order is served as a result of an ongoing investigation, the victim should be updated

by the investigating officer who made the application.

Where bail applications/variations and arrests for breach of bail are made over the weekend or holiday periods, officers will be responsible for updating the victim as this sits outside the normal Victim and Witness Care Unit (VWCU) office hours.

Officers should record details of all witness contact on the OEL. Once a prosecution file has been submitted to the PPS the Victim and Witness Care Unit (VWCU) will provide further updates.

## 14. Victim and Witness Care Unit (VWCU)

Once a file has been submitted to the PPS for decision the responsibility for providing updates will lie with the Victim and Witness Care Unit. This unit is based on PPS premises and is jointly staffed by both police and PPS staff. There are two central hubs in Belfast and Foyle and each has a dedicated Victim Support NI member to provide further support. The VWCU provides a single point of contact within the criminal justice system and its primary role is to keep victims and witnesses fully informed of the progress of their case

throughout the criminal justice process.

The VWCU can also make referrals to other service providers if additional support is required.

To realise the full benefits and continued effectiveness of VWCU police officers should:

- Accurately record the names and contact details of all victims and witnesses including a suitable and safe email address and update Niche with any changes. This will also assist both Victim Support NI and police where personal contact cannot be made;
- Record Parent/guardian details in respect of young victims and witnesses, these are vital;
- Where appropriate record Next of Kin (NOK) contact details within Niche case file and ensure such detail is submitted to PPS;
- Ensure all victims of crime are indicated as victims within the Niche case file prior to submission to PPS;
- Take reasonable steps to identify vulnerable and/or intimidated witnesses. Where there is a potential requirement for Special Measures provision for a witness this should be reflected within the witness care report and evidenced

by way of a further statement from the witness;

- Ensure investigating police contact details are current prior to Niche case file submission to PPS; and
- Where a Family Liaison Officer (FLO) is appointed to the investigation details of the FLO should be recorded within the Niche case file prior to submission to PPS.

It is acknowledged that in Crown Court cases particular victims and/or witnesses within an investigation may continue to derive benefit from personal contact with investigating police (including FLO contact).

Further information of the [Victim and Witness Care Unit](#) is available.

## 15. Victim Information Leaflet

In addition to receiving regular updates, each victim of crime must be provided with an *'Information for Victims of Crime'* leaflet at the time of report and without unnecessary delay after reporting the crime. Officers should indicate to Contact Management Support Unit (CMSU) that this has been done and they will update details on Niche.

When attending a report of crime within the business community officers should ensure they provide a leaflet to any specific victims and highlight additional support available through Victim Support NI.

## 16. Victim Support Northern Ireland

The Victim Charter outlines victims' entitlement to an independent and confidential support service. In Northern Ireland this service is provided by Victim Support NI, an independent charity which helps people affected by crime. Their trained staff and volunteers offer a free and confidential service, whether or not a crime has been reported to police and regardless of how long ago the event took place. Where a crime has been reported to police, victims' details will be automatically shared with Victim Support NI. Consent is no longer required for the transfer of details however, any objections to this should be highlighted to CMSU.

Victim support, in delivering their services, will:

- provide support to adult prosecution victims and witnesses before, during and after any trial;

- provide information, advice and support relevant to the rights of victims, including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial;
- provide information about or direct referral to any relevant specialist support services in place;
- provide emotional support;
- provide advice relating to practical issues arising from the crime;
- provide referral to services providing advice relating to financial issues arising from the crime;
- provide advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation; and
- pay particular attention to the specific needs of victims who have suffered considerable harm due to the severity of the crime.

For further information on Victim Support NI and the services they provide see the [Victim Support NI website](#).

## 17. Victim Support District Contacts

Each District has a nominated officer who provides a single point of contact (SPOC) for Victim Support NI and they can assist with any particular issues arising in their area. Meetings are held twice yearly to discuss any particular issues, new initiatives and to share best practice.

## 18. Family Liaison Officers

A family member of a victim who dies as a result of a crime is entitled, under the Victim Charter, to additional services (in addition to the standard entitlements of victims). This includes having a Family Liaison Officer (FLO) assigned by the Police. Family liaison officers are specially trained police investigators who are part of the investigation team and are appointed by the senior investigating officer to manage communication between a bereaved relative and the investigation team. The main role of the family liaison officer is that of investigator but they will also be responsible for:

- Collecting all relevant information and passing it to the investigating team;

- Answering any questions about the investigation;
- Relaying the Public Prosecution Service's prosecutorial decision;
- Providing information about other agencies who may provide support for emotional and practical needs;
- Liaising with the coroner's office; and
- Relaying information to/from the victim's family representative.

Further information can be found by clicking [here](#).

## 19. Registered Intermediaries Scheme

Intermediaries are one of the special measures available to victims and witnesses (see section 4). Registered Intermediaries (RIs) provide specialist assistance to people with significant communication difficulties and play an important role in assisting crime victims, witnesses, suspects and defendants to communicate effectively during the police investigation and any subsequent trial.

The Department of Justice's Intermediaries Scheme Secretariat (ISS) has a register of

intermediaries with a broad range of skills required to communicate effectively with vulnerable witnesses to help achieve best evidence and defendants in having a fair trial.

Where investigating police identify that a witness or suspect may have a significant communication difficulty and consider them to be eligible for RI assistance they should apply to the ISS as soon as is practicable. Where possible an RI should be engaged before arranging any Pre-Interview assessment or interview.

It is important that the PPS are made aware that an RI was used during the course of an investigation therefore it is essential that this is recorded as a 'special measure' on the witness care report.

The ISS is available **24/7** with an out of hours number available to officers.

## 20. Victim Personal Statement

If the PPS make a decision to prosecute in a case, the VWCU will inform the victim of this in writing. This letter will include information on their entitlement to be given the opportunity to make a Victim Personal Statement (VPS) and who to contact to do so.

A VPS allows a person to say in their own words how a crime has affected or continues to affect them. It will only be used after a person is found guilty or pleads guilty. A person can make a VPS if they are:

- a direct victim of crime;
- a bereaved close family member of that person, if the victim is deceased; or
- a parent or guardian of a victim who is under 18 (this can be in addition to or instead of the child).

In most cases the VPS will be recorded by Victim Support NI or NSPCC staff but in some more serious cases (Murder/ Manslaughter/ culpable road death) the Family Liaison Officer may record the statement. There may be other occasions where the victim prefers to have their VPS recorded by the investigating officer.

## 21. Victim Information Schemes

There are three victim information schemes in Northern Ireland, managed by the Probation Board for Northern Ireland's (PBNI) Victim Information Unit. The VWCU will provide information on the schemes to the victim who can register for one of the following:

- The Prisoner Release Victim Information Scheme (PRVIS) – where the offender has been sentenced to time in prison;
- The Probation Board Victim Information Scheme – where the offender has been given probation;
- Mentally Disordered Offenders Victim Information Scheme – where the offender has been given a hospital restriction order.

Registering for the schemes is voluntary and information provided might include the offender's release date and seeking their views on temporary release applications.

For further information on these schemes see [NI Direct](#).

## 22. Return of property

PACE (Article 24 (1)) provides a general power for police to retain seized items "so long as is necessary in all the circumstances"

In accordance with the Victim Charter officers should ensure that they:

- Provide victims with appropriate information regarding their property;

- Where possible, make a copy of the property and have the original returned;
- Keep under review the need to retain the property; and
- Return or dispose of the property once any statutory power to retain it has expired.

In addition the PSNI Code of Ethics states that:

*“Police officers shall ensure that property, monies or equipment entrusted to them in their role as police officers are handled and maintained as required by law and Police Service policy”.*

result in employees being criminally investigated and reported to the PPS for a suspected breach of the Data Protection Act. This may then be followed by appropriate internal disciplinary action.

## 23. Data protection

The PSNI will record and retain personal information relating to a range of individuals, including victims and witnesses. Officers and staff should ensure that all personal information is held and processed in accordance with the Data Protection Act 1998 and PSNI Code of Ethics.

All PSNI employees (officers & staff) are reminded that without a lawful and legitimate policing purpose, personal data contained within any IT application should not be accessed viewed or disclosed.

Failure to comply with this direction will

## 24. Consultation list

- |  |  |  |
|--|--|--|
| 1. Legacy and Justice Department                         | 2. Legal Services                                | 3. Human Rights Legal Adviser                              |
| 4. Head of HR  | 5. Equality and Diversity Unit                   | 6. Policing with the Community Branch                      |
| 7. District Policing Command                             | 8. Heads of Department                           | 9. Head of Training  |
| 10. Occupational Health and Well-being (OHW)             | 11. Head of Media and Public Relations           | 12. Head of Professional Standards Department (PSD)        |
| 13. Ethnic Minorities Police Association                 | 14. Gay Police Association                       | 15. Women's Police Association                             |
| 16. Federation/Superintendents' Association/Trade Unions | 17. Police Ombudsman for Northern Ireland (PONI) | 18. Probation Board for Northern Ireland (PBNI)            |
| 19. Public Prosecution Service (VWCU)                    | 20. Northern Ireland Courts Service              | 21. Victim Support NI                                      |
| 22. NSPCC  | 23. Rainbow Project                              | 24. Northern Ireland Council for Ethnic Minorities (NICEM) |
| 25. Women's Aid Federation for Northern Ireland          | 26. Men's' Advisory Project                      | 27. Disability Action                                      |
| 28. Department of Justice (Victim and Witness Branch)    |  |  |

## **Appendix A Contact Us**

**Service Instruction Author**

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**Branch Email**

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