

# Vulnerable Witnesses - Guidance for Social Workers

Many witnesses experience stress and fear during the investigation of a crime and when attending court and giving evidence. Stress can affect the quantity and quality of communication with, and by, witnesses of all ages. Some witnesses may have particular difficulties attending court and giving evidence due to their age, personal circumstances, fear of intimidation or because of their particular needs.

Effective communication and partnership working between the Police, Crown Prosecution Service (CPS), Registered Intermediary Service, Social Worker and the wider Voluntary Sector is crucial in creating the best possible outcomes for adults who become involved, as witnesses, in the Criminal Justice System (CJS).

The key issue for the CJ agencies to consider when they are working with an adult with care and support needs (vulnerable person) is the possibility and likelihood that this person may have an active Social Worker.

Social Workers' who are aware a client is involved in the CJ process should pro-actively consider the available options in relation to the victim support network; and in conjunction with this, understand the role they can play if they are contacted by other professionals (Police, CPS or Registered Intermediary).

## **Case Notes and Reports**

The case notes of Social Worker reports can be requested during proceedings, which magnifies the need for accuracy, factual and up to date recording, and eliminating the use of un-qualified 'opinions'. The following feedback has been provided by the CPS in line with this:

When an adult (vulnerable person) goes through the CJ process and they are receiving support at the time or shortly after the offence, the notes are third party material and can be summonsed to court or dealt with under the third party protocol. The notes can then be put to the witness after they give their evidence if there is a relevant point.

Examples:

1. Where a person has explained what has happened to a Social Worker and then given an explanation in court which is slightly different; the person can be cross examined about the notes. Often there is a question of accuracy in the Social Workers notes.
2. There have been examples when professionals have included their 'opinion' about what has happened and the complainant has been cross examined about this.

3. There are some myths about the CJ process which may not be understood (e.g. people being told that they cannot seek therapy pre-trial, which is not correct).

### **Special Measures**

Special measures are a series of provisions that can help vulnerable and intimidated witnesses provide their best evidence in court and help to relieve some of the stress associated with giving evidence.

Vulnerable witnesses are defined as:

- All child witnesses
- Any witness whose quality of evidence is likely to be diminished because they:
  - are suffering from a mental disorder (as defined by section 1(2) of the Mental Health Act 1983 and amended into a single definition by section 1(2) of the Mental Health Act 2007
  - have a significant impairment of intelligence and social functioning; or
  - have a physical disability or are suffering from a physical disorder.

Special measures are not an automatic entitlement during criminal proceedings and must be approved by the Court. Courts have to satisfy themselves that the special measure or combination of special measures in question is likely to maximise the quality of the witness's evidence before granting an application. Therefore, at no point during the police investigation or discussions with the witness should special measures be guaranteed to the witness.

The special measures available to vulnerable and intimidated witnesses, with the agreement of the court, include:

- **screens** to shield the witness from the defendant
- **live link/video link** to enable the witness to give evidence during the trial from outside the court room through a visual link to the courtroom. The witness may be accommodated either within the court building or in a suitable location outside of the court\*
- **evidence given in private** entails exclusion from the court to members of the public and the press (except for one named person to represent the press) in cases involving sexual offences or intimidation by someone other than the accused
- **removal of wigs and gowns by judges and barristers** in the Crown Court
- **visual recorded interview** prior to the trial may be admitted by the court as the witness's evidence-in-chief, for adult complainants in sexual offence trials in the Crown Court.

- **pre-trial visual recorded cross-examination or re-examination** a visual recorded examination of the witness recorded at an earlier point in the process than the trial may be admitted by the court as the witness's cross-examination and re-examination evidence in the Crown Court.
- **examination of the witness through an intermediary** an intermediary may be appointed by the court to assist the witness to give their evidence at court. They can also provide communication assistance in the investigation stage, the intermediary is allowed to explain questions or answers so far as is necessary to enable them to be understood by the witness or the questioner but without changing the substance of the evidence
- **aids to communication** aids to communication may be permitted to enable a witness to give best evidence whether through a communicator or interpreter, or through a communication aid or technique, provided that the communication can be independently verified and understood by the court

\*Live link/video link is available from [My Sisters Place Domestic Abuse Service](#) for Magistrates Court cases and [SARC Teesside](#) for Crown Court cases. Please contact the services directly for additional information.

### **Support Services**

Advocates can also assist vulnerable witnesses to navigate through the criminal justice system. Specialist support services provide IDVA (Independent Domestic Violence Advocate/Advisor) and ISVA (Independent Sexual Violence Advocate/Advisor) support across Cleveland. Links to the services can be found on the [TSAB website](#).

There is an extensive range of organisations available to help an individual progressing through the CJS; however this **victim support network** is not always coherently connected or understood by professionals. The following links provide an insight into this:

- [Advocacy Support](#)
- [All Age Liaison & Diversion Service](#) (NHS England)
- [Cleveland Police Witness Care Unit](#)
- [Domestic Abuse Services](#)
- [HM Courts & Tribunal Service](#)
- [Registered Intermediaries](#)
- [Teesside Sexual Assault Referral Centre](#)
- [Victim Care & Advice Service \(VCAS\)](#)
- [Victims Code & Witness Charter](#)
- [Victim Support](#)
- [Witness Service](#)
- [YouTube – Step by Step Guide to Being a Witness](#) (Ministry of Justice)



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