



Home Office

# Witness care and services

Version 5.0

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# About this guidance

This guidance tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the process to follow if they have witnesses who are required to give evidence in court.

It tells you:

- the role of a witness
- the role of the prosecuting authorities
- about witness services
- the role of witness support in court
- what happens in court
- the code of practice for the victims of crime
- what special measures are available to witnesses
- how to handle witness intimidation
- what your obligations as a criminal investigation officer are
- how witnesses can claim expenses

The Home Office has a duty to safeguard vulnerable people and promote the welfare of children for more information see: [Vulnerable adults and children](#)

Criminal Investigators in Immigration Enforcement must be aware of their obligations under the UK General Data Protection Regulation (UK GDPR) and Part 3 of the Data Protection Act 2018 see: [Data Protection](#)

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the CFI Operational Capability and Compliance Enquiries inbox

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance and Forms - Making Changes team.

## Publication

Below is information on when this version of the guidance was published:

- version **5.0**
- published for Home Office staff on **31 August 2021**

## Changes from last version of this guidance

- updated links to citizens advice in England and Wales

- updated CPS links
- Section 28 cross examination via video link changes
- housekeeping changes

## **Related content**

[Contents](#)

# The role of a witness

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the role of a witness.

Witnesses play a vital part in delivering justice. By making a solemn promise in court to tell the truth, they make it possible for magistrates, judges and jury members to understand what really happened in a criminal case.

Before courts can find someone guilty or not guilty, they need to hear and consider the evidence that witnesses can provide.

## Who are witnesses?

A witness is someone who:

- knows something about a particular crime, incident or dispute
- has specialist knowledge that would be useful in a trial
- knows someone involved in a case (a character witness)

To find out more about being a witness at court, see:

- [The Witness Charter Nov 2013](#)
- [Going to court as a victim or witness](#)
- Giving evidence in court
- [Code of Practice for victims of crime](#)
- Witness at court

To find out how you can be expected to be treated by the Home Office if you are a witness in a case, see: [The Witness Charter Nov 2013](#).

As a criminal investigator you may give evidence or may take witness statements from people who will give evidence. Whenever you take a witness statement from a member of the public, you must complete the witness personal details section on the rear of the MG11 form.

Any forms or files of evidence submitted for a criminal investigation are subject to the disclosure and Criminal Procedures and Investigations Act (CPIA) rules governing evidence.

For more information about witness statements, manual of guidance and MG forms and also disclosure rules, see the following:

- Forms for first referral to the CPS for charging
- Witness statements guidance
- Manual of guidance and MG forms
- Disclosure – Criminal Procedures and Investigations Act (CPIA)

For information about the CPIA legislation, see: [Criminal Procedure and Investigation Act 1996](#).

**Related content**

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# Prosecuting authorities

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the prosecution authorities in the UK and what they are responsible for.

Files of evidence, including witness statements are submitted to the prosecuting authorities who determine which cases go to court and which witnesses will be called to give evidence.

Throughout the UK there are 3 main prosecuting authorities for criminal matters:

- [The Crown Prosecution Service](#) (CPS) - responsible for all cases in England and Wales
- [Crown Office and Procurator Fiscal Service](#) (COPFS) - Scotland's prosecution service
- [Public Prosecution Service for Northern Ireland](#) (PPS) - responsible for all cases in Northern Ireland

## Related content

[Contents](#)

# Prosecuting authorities: The Crown Prosecution Service

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what the Crown Prosecution Service (CPS) is responsible for in England and Wales and their commitment to witnesses.

The CPS is the government department responsible for prosecuting criminal cases investigated by the police and other investigating bodies in England and Wales including:

- National Crime Agency
- Home Office Immigration Enforcement
- Her Majesty's Revenue and Customs
- Department for Work and Pensions
- Department for Environment, Food and Rural Affairs
- Department of Health
- Medicines and Healthcare Products Regulatory Agency

As the principal prosecuting authority in England and Wales, the CPS are responsible for:

- advising investigating bodies and the police on cases for possible prosecution
- reviewing cases submitted by investigating bodies and the police
- deciding any charges in more serious or complex cases
- preparing and presenting cases for court

The CPS is committed to treating witnesses at court with respect and sensitivity. Whenever possible the CPS tries to:

- introduce themselves to witnesses
- put nervous or vulnerable witnesses at ease
- explain court procedures
- keep all victims and witnesses informed about delays
- ask for them to be released as soon as possible after giving evidence

The CPS will challenge unfair and derogatory (insulting) statements during the court hearing and, where necessary, invite the court to hear evidence on issues raised by the defence representatives.

For more information see:

- [CPS information on going to court](#)
- [Going to court to give evidence as a victim or witness](#)

**Related content**  
[Contents](#)

# Prosecution authorities: Crown Office and Procurator Fiscal Service

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what the Crown Office and Procurator Fiscal Service (COPFS) is responsible for in Scotland and how they work with witnesses.

The COPFS is Scotland's prosecution service. The COPFS receive reports about crimes from the police and other reporting agencies and then decide what action to take, including whether to prosecute someone.

The main roles and responsibilities of the COPFS are to:

- investigate, prosecute and disrupt crime, including seizing the proceeds of crime
- establish the cause of sudden, unexplained or suspicious deaths
- investigate allegations of criminal conduct against police officers

The COPFS recognise witnesses play an essential part in the justice system, providing important information about court cases. Witnesses can be cited (called), to give evidence by the COPFS either to:

- help prosecute someone of a criminal offence
- establish the cause of a death

If you are a witness, you may feel anxious about appearing in court. However, advice, assistance and support services are available for you. You can sometimes arrange a visit in advance to help you become more familiar with the courtroom.

A witness must not ignore the citation. If they do not turn up at the correct time and place, the court can issue a warrant for their arrest.

If you are criminal investigator giving evidence in court for the first time the OIC of the investigation should provide advice, assistance, and support. They can also arrange a court familiarisation session if required

For more information about being a witness in a case in Scotland, see: [COPFS witness advice](#).

## Related content

[Contents](#)

# Prosecution authorities: Public Prosecution Service for Northern Ireland

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what the Public Prosecution Service for Northern Ireland (PPS) is responsible for and how they engage with witnesses.

The PPS is the principal prosecuting authority in Northern Ireland. It:

- decides what cases investigated by the police in Northern Ireland to prosecute
- considers cases investigated by other statutory authorities, such as HM Revenue and Customs and CFI

The PPS is very much aware of the importance of victims and witnesses in making sure the criminal justice system operates effectively. Victims and witnesses play a vital role in:

- cooperating with an investigation
- giving evidence at court

Without this assistance, many cases would not be detected or prosecuted.

Witnessing a crime is often a traumatic experience. The PPS recognises that engaging with the criminal justice system can add to that stress. It is, therefore, vital that they give victims and witnesses:

- support
- information
- services

They minimise the disruption and upset caused to the victim, while helping them to give evidence in an effective manner. For more information about being a witness in a case in Northern Ireland, see: [PPS victims and witnesses](#).

## Related content

[Contents](#)

# Witness services and care

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what witness services are available and what they provide in England, Wales, Scotland and Northern Ireland.

The Witness Service in England and Wales is run by the [Citizens Advice witness service](#) to help victims and witnesses.

Citizens advice provide free and independent support for both prosecution and defence witnesses in every criminal court in England and Wales. Trained volunteers provide practical information about the process, as well as emotional support to help witnesses feel more confident when giving evidence.

Criminal investigators can talk to someone from the Witness Service before you or any of your witnesses involved in the case go to court and even arrange for a volunteer to be with you or the witness on the day.

The Witness Service can provide you, or a witness in your case with:

- someone to talk to confidentially, about how you or they are feeling before a trial
- information about what to expect in court, including a chance to see the court beforehand and learn about court procedures
- a quiet place to wait before you or they are called to give evidence
- someone to go with you or them into the courtroom if you want, to help you or them feel more at ease
- practical help (for example, with claiming expenses)
- easier access to people, such as court staff, who can answer specific questions about the case
- a chance to talk over the case when it has ended and to get more help or information

Like the rest of Citizens advice, the Witness Service is free and independent of the police or courts.

Criminal investigators can find the details for Citizens advice on the above link. Citizens advice can be contacted on

Adviceline (England): 0800 144 8848

Advicelink (Wales): 0800 702 2020

Advicelink (Scotland) 0800 0281456

Advicelink (Northern Ireland) 0300 123 3233

- Textphone: 18001 0800 144 8884

For further information, see:

- [Citizens Advice going to court as a victim or witness](#)
- [Get support as a victim or witness of crime - mygov.scot](#)
- [Victim Support | Police Service of Northern Ireland \(psni.police.uk\)](#)

For more general information about attending court as a witness, see: [Going to court as a victim or witness](#).

### **Related content**

[Contents](#)

# The code of practice for victims of crime

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the [code of practice for victims of crime](#) in England and Wales, who can receive services under this code, how they can access support, what is available and how they can complain.

For the purpose of the code the definition of a 'victim' is a person who has

- suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence
- a close relative (or a nominated family spokesperson) of a person whose death was directly caused by a criminal offence

You can also receive Rights under this Code if you are:

- a parent or guardian of the victim if the victim is under 18 years of age, or a nominated family spokesperson if the victim has a mental impairment or has been so badly injured because of a criminal offence that they are unable to communicate or lacks the capacity to do so

All service providers must have the victim's best interests as their primary consideration and take the victim's age, maturity, views, needs and concerns fully into account. CFI officers must also be aware of their duty to keep the victim fully informed about the investigation and prosecution

See [Code of Practice for Victims of Crime in England and Wales \(Victim's Code\) - GOV.UK \(www.gov.uk\)](#)

## The family spokesperson for families bereaved by crime

A victim is entitled to receive the services under this [code](#) where the crime took place in England or Wales or the services relate to criminal proceedings which are happening in England or Wales.

The close relatives in a family left bereaved can nominate a spokesperson to act as a single point of contact. If the family can't choose, you must choose the spokesperson.



## **The family spokesperson for victims who have a disability or who are unable to communicate**

Victims with a disability or who cannot communicate as a result of injuries from the criminal offence, or their close relatives, can nominate a spokesperson to act as a single point of contact.

## **The parent or guardian of a victim who is under 18 years of age**

If the victim is under 18, they - and usually their parent or guardian - are entitled to receive services under the code.

## **What if the victim does not want the services they are entitled to?**

If the victim does not want to receive the services they are entitled to, they can discuss what they want tailored to their individual needs which may fall below the standards required under the code. The victim can decide they do not want some or all of the information or services they are entitled to. They can choose to opt back into receiving services at any time while the case is under active investigation or prosecution.

## **Duties to provide information on request and the giving of reasons**

If a victim requests information about a prosecution or a decision not to investigate or to cease investigating, you must provide it. When you do this, you must provide at least a brief summary of the reasons for the decision made. The duty to provide reasons does not apply to the final outcome of a jury trial.

If there is a high number of victims or, where appropriate, in exceptional cases, you may communicate the information to those victims using alternative channels such as [Immigration Enforcement - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Nothing in [The Code of Practice for Victims of Crime in England and Wales and supporting public information materials](#) requires Immigration Enforcement to provide information where disclosing that information:

- could harm any person
- could affect the proper handling of any criminal investigation or prosecution, or could otherwise prejudice any civil or criminal case
- would be against the interests of national security

## Right to review

Immigration Enforcement must provide victims with a right to review a decision not to prosecute. This must be done at least in respect of serious offences (as determined by Immigration Enforcement).

Where a victim is informed of a decision not to prosecute a suspect, Immigration Enforcement must, without unnecessary delay, tell them they can review it and give enough information, so a victim can decide whether to request a review with the Crown Prosecution Service (CPS).

For information relating to the responsibilities of investigators and who can receive services under this code, how they can access support, what is available and how they can complain. See: [Ministry of Justice Victims Code 2020](#)

## Expenses

Immigration Enforcement must explain to victims how they can claim expenses from the CPS for attendance at court.

## Property

Where you have seized recoverable property from the victim in your investigation and it is no longer needed, you must return it without delay.

## Special measures

Where, having completed an individual assessment, you identify that a victim has special protection needs and would benefit from 'special measures' when giving evidence, the Crown Prosecution Service must apply to the court for the appropriate special measure under [Part 2 of the Youth Justice and Criminal Evidence Act 1999](#).

## Children and young people

At all times you must have the child's best interests as a primary consideration. Where you have been unable to determine the person's age and you believe the person is less than 18 years of age, you must presume the person is under the age of 18.

A child who is a victim is presumed to need specific special protection measures for interviews and is also eligible for 'special measures' when giving evidence.

You must ask a child who is a victim (or their parent or guardian) if they would like their interview to be video recorded so that the recorded interview may be used as evidence in criminal proceedings.

You also have a duty to promote and safeguard child welfare in the course of your duties under [section 55 of the Borders, Citizenship and Immigration Act 2009](#).

## Complaints

If you receive a complaint, you must ensure that you recognise and treat victims in a respectful, sensitive and professional manner without discrimination of any kind. You must provide an acknowledgement or response to the victim within 10 working days of receipt of their complaint. If you send an acknowledgement, you must set out the complaints process and include the timeframe for providing a substantive response. For more information on the Home Office complaints system, see the [immigration enforcement complaints procedure](#).

### Related content

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# Information about the rights of victims

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what victims are entitled to and what investigators must provide to victims in England and Wales under the [Code of practice for victims of crime](#).

Under the [Code of Practice for Victims of Crime](#), in England and Wales victims are entitled to:

- understand and to be understood
- have the details of the crime recorded without unjustified delay
- be provided with information when reporting the crime
- be referred to services that support victims and have services and support tailored to your needs
- be provided with information about compensation
- be provided with information about the investigation and prosecution
- make a Victim Personal Statement
- be given information about the trial, trial process and your role as a witness
- If your case goes to court
- be given information about the outcome of the case and any appeals
- be paid expenses and have property returned
- be given information about the offender following a conviction
- make a complaint about your Rights not being met

For more information and guidelines on the above rights see: [Code of Practice for Victims of Crime in England and Wales \(Victim's Code\)](#)

## Related content

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# Witness care units: England and Wales

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the Crown Prosecution Service (CPS) witness care units in England and Wales.

The fundamental role of the CPS is to:

- protect the public
- support victims and witnesses
- deliver justice

At all stages in the criminal justice process the CPS help, encourage and support the effective participation of victims and witnesses.

Witnesses are essential to successful prosecutions and the CPS is committed to making the process as straightforward as possible. Witness care units are in place across England and Wales and are jointly staffed by the police and the CPS.

The aim of witness care units is to:

- liaise with the CPS prosecutors to make sure victims and witnesses have the support they need to help them to give their best evidence
- provide a single point of contact for victims and witnesses to keep them informed about the progress of their cases
- arrange additional support for those who need it
- minimise the stress of attending court

## How witness care units care for witnesses

Witness care units manage the care of victims and witnesses from the charging of the defendant or defendants through to the conclusion of a case. The service to victims and witnesses includes:

- a single point of contact for victims and witnesses
- a full needs assessment for victims and witnesses with particular support needs who are required to attend court - this is to make sure they are able to get to court and give their best evidence
- dedicated witness care officers to guide and support individuals through the criminal justice process and to coordinate support and services
- a continuous review of victim and witness needs throughout the case
- communication with victims and witnesses to inform them of the case outcome or trial result, thanking them for their contribution to the case and offering post-case support from the relevant support agency

Witness care units, if required, refer victims and witnesses to national and local specialist support agencies which provide ongoing support to meet individual needs.

For more information, see: [CPS commitments to victim and witnesses](#) and [Victim Support — Witness Care Units](#)

**Related content**

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# Witness care: Scotland

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what witness care is available in Scotland.

In Scotland, the Crown Office and Procurator Fiscal Service (COPFS) offer the Victim Information and Advice (VIA) service system for victims and witnesses.

VIA service has offices around Scotland to provide help for:

- child victims
- victims of crime in cases of:
  - domestic abuse
  - hate crime
  - sexual crime
- victims where it is likely that a trial will involve a jury

VIA staff can help by:

- providing information about the criminal justice system
- assisting where a victim is vulnerable for any reason, or if the prosecutor believes the victim will benefit from VIA involvement
- updating on key developments like:
  - dates of hearings
  - decisions about bail
  - verdicts and sentences
  - why no proceedings are taken
- identifying organisations that offer practical and emotional support
- discussing any additional support required

VIA can also arrange a pre-trial visit to court and can assist with providing information to the next of kin in a death enquiry.

During a trial, VIA can help to inform the judge and jury about the impact the crime has had on victims and witnesses and also any injury, loss or damage suffered which could result in payment of compensation.

VIA can, in some cases, help to prepare a victim statement or ask for the victim's or witnesses' views if the judge is considering making a non-harassment order. This order can provide protection from a person's behaviour which is alarming or distressing.

VIA staff are not prosecutors and cannot decide or influence what happens in a prosecution.

For more information, see:

- [COPFS Victims](#)
- [COPFS Witnesses](#)
- [COPFS Victims and Witnesses](#)
- [Victims' Code for Scotland](#)

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# Witness care: Northern Ireland

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the witness care services available in Northern Ireland.

The Public Prosecution Service in Northern Ireland (PPS) policy sets out the service victims and witnesses can expect to receive from the PPS.

This service is the PPS commitment to giving victims and witnesses the type of assistance and information they need to make sure they take part effectively in the criminal justice system.

The PPS has victim witness care units based in Belfast and Londonderry which provide a range of services to victims and witnesses for the prosecution who are involved in cases at:

- magistrates' courts
- youth courts

They also act as a contact point for victims and witnesses who have queries concerning the overall prosecution process and the progress of their specific case.

For more information, see:

- [PPS Victim and Witness care unit](#)
- [Victim Charter Northern Ireland](#)

## Witness services

To make sure all victims and prosecution witnesses are well informed and supported, witness services are available before, during and after the trial.

The aim of witness services is to help prosecution witnesses deal with going to court and giving evidence. There are 2 types of witness service available:

- witness service for adult witnesses, run by Victim Support NI
- young witness service for witnesses under the age of 18, run by the National Society for the Prevention of Cruelty to Children (NSPCC)

Both these services are available in all courts.

Both services contact witnesses before the court hearing to offer services - witnesses must give consent for their details to be given. Trained volunteers and staff from the services provide a free and confidential, including:

- providing:
  - information on court procedures

- a quiet place where witnesses can wait before and during the hearing
- contact with people who can answer specific legal questions (the witness services do not discuss evidence with witnesses)
- accompanying witnesses:
  - to the court to look around the courtroom before being called to give evidence
  - into the courtroom or the live TV link room when giving evidence
- giving witnesses:
  - someone to talk to
  - practical help with expense forms
  - a chance to discuss the case once it is finished
- getting more help or information for witnesses

For more information, see: [NSPCC Young Witness Service](#)

## Special court measures

For a special measures application to be successful, two requirements must be satisfied under the Criminal Evidence (Northern Ireland) Order 1999, as follows: The witness must be eligible for special measures.

If a witness is deemed to be eligible, then the court must be of the opinion that the use of special measures would be likely to improve the quality of the witness's evidence.

If the court is satisfied of the above, it must then decide which special measure or combination of measures will likely maximise the quality of the evidence.

## Who is eligible for Special Measures?

In accordance with Articles 4 and 5 of the Criminal Evidence (Northern Ireland) Order 1999, a vulnerable or intimidated witness will be eligible for special measures.

## Who are vulnerable witnesses?

Vulnerable witnesses are defined as:

All child witnesses (under 18 years).

Any witness whose quality of evidence is likely to be diminished because they:

- are suffering from a mental health disorder as defined by the [Mental Health \(Northern Ireland\) Order 1986](#)
- have a significant impairment of intelligence and social functioning
- have a physical disability or are suffering from a physical disorder

Some disabilities are obvious, and others are hidden. Some witnesses may have a combination of disabilities. They may not wish to disclose the fact that they have a disability during any assessment of their needs. Different witnesses on the autistic spectrum may have very different needs.

## Witnesses under 18 – the Primary Rule

A witness who is under 18 on the proposed date of contest, is automatically eligible for special measures without further qualification as per [Article 4\(1\) The Criminal Evidence \(Northern Ireland\) Order 1999](#)

### Intimidated witnesses

Intimidated witnesses are those who are in fear or distress about testifying in a case. Unlike a minor or a complainant in a sexual offence case, this category of eligibility is not automatic.

Under [Article 5\(1\)The Criminal Evidence \(Northern Ireland\) Order 1999](#) , the court must be satisfied of 2 requirements for an application to be successful. Firstly, the court must be satisfied that the witness is in fear or distress in connection with testifying in the proceedings. Secondly, the court must be satisfied that by reason of this fear or distress the quality of evidence given by the witness is likely to be diminished.

The fact that a witness is eligible for special measures does not mean that they will be automatically granted by the court. The court has to satisfy itself that the special measure or combination of special measures requested is likely to maximise the quality of the witness's evidence before granting an application.

### Types of special measures

The special measures available to vulnerable and intimidated witnesses, with the agreement of the court, are detailed in the Criminal Evidence (Northern Ireland) Order 1999 and include the following:

Screens are available for vulnerable and intimidated witnesses and may be made available to shield the witness from the defendant.

Live link facilities which enable the witness to give evidence during the trial from outside the court through a televised link to the court room. The witness may be accommodated either within the court building or in a suitable location outside the court. This type of special measure is available for vulnerable and intimidated witnesses

Giving evidence in private involves the exclusion of members of the public and the press from court in cases involving sexual offences or intimidation by someone other than the accused.

The removal of wigs and gowns by judges and barristers is available for vulnerable and intimidated witnesses at the Crown Court

Video recorded evidence is a measure available for vulnerable and intimidated witnesses. It allows the video recorded evidence of a witness to be played in court as the evidence in chief.

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, as long as the communication can be independently verified and understood by the court.

A Registered Intermediary can be used to facilitate better communication between a witness and those asking questions of them. A Registered Intermediary can be involved during an ABE interview or during a court hearing.

There may be situations in which a combination of special measures may be appropriate. For example, if a witness who is to give evidence by live link wishes, screens can be used to shield the live link screen from the defendant and the public.

It is important that the Prosecutor has all the available and relevant information to assist with the making of a special measures application. In most cases it will be CFI officers who will provide the prosecutor with the information. Sometimes, however the information will come directly from the witness.

Ideally early decisions should be taken regarding special measures to assist victims and witnesses. An application can, however, be made at a later stage in the proceedings in the event of a change of circumstance.

## **Related content**

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# What happens in court

This page gives criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office brief details of what happens in court.

Giving evidence can be difficult for any witness. They may be:

- asked to talk publicly about unpleasant, upsetting or personal events - things they might not even feel comfortable saying to a friend or family member
- concerned about whether an offender, or people they know, may try to get revenge if what they say in court contributed to the offender going to prison or being punished

If you are a witness, the way a court works can also cause you problems. Because a trial involves legal argument by lawyers for and against the accused, you will probably have to face difficult cross-examination. This can mean lawyers may:

- criticise you in front of the court room
- try to make it look like you:
  - are lying
  - do not really understand
  - do not remember what happened

For more information on court procedures, see:

- Giving evidence in court
- [Going to court to give evidence as a victim or witness](#)

## What is not allowed

Because of the serious nature of trials and the fact they are making life changing decisions in delivering justice, there are many rules about what is not allowed in court:

- witness service volunteers cannot discuss evidence with a witness or give them legal advice
- as a member of an Immigration Enforcement team you cannot:
  - discuss your evidence with witnesses during the trial
  - talk about the questions you were asked to other witnesses

This is because there is a risk you may be accused of interfering with the trial.

## Controlling the media

Courts are public places and reporters are normally free to attend any trial. And while some restrictions apply to all trials (such as banning taking photographs in court) cases can and do end up on social media, the newspapers or on radio and TV.

However, the media must not identify a witness or defendant who is:

- under 18 see: [Section 49 Children and Young Persons Act 1933](#)
- a victim of rape or sexual assault

CFI officers should also be aware of the CPS guidance relating to reporting restrictions see: [Reporting Restrictions - Children and Young People as Victims, Witnesses and Defendants | The Crown Prosecution Service](#)

The courts can also put restrictions in place to limit what the media can report, for example if a witness is afraid or very upset at giving evidence. If you have concerns about the media covering a trial you are involved in as a witness, the Home Office can give you information about what help may be available.

For more information, see: Dealing with the media.

### **Related content**

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# Special measures for witnesses

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what to do if you, or a witness in your care, need special requirements and what measures are available to help.

When you consider applying for special measures, you must take into account that it is handled differently for the different parts of the UK, so you must follow the correct guidance.

This section includes:

- [Special measures for witnesses: England and Wales](#)
- [Special measures explained: England and Wales](#)
- [Applying for special measures: England and Wales](#)
- [Special measures for witnesses: Scotland](#)
- [Special measures for witnesses: Northern Ireland](#)

## **Related content**

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# Special measures for witnesses: England and Wales

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what to do if you or a witness in your care has specific requirements and what special measures are available to help for court proceedings in England and Wales.

## The Youth Justice and Criminal Evidence Act 1999 (YJCEA)

This act introduced a range of measures that can be used to facilitate the gathering and giving of evidence by vulnerable and intimidated witnesses. The measures are collectively known as special measures and are subject to the discretion of the court.

For more information, see: [The Youth Justice and Criminal Evidence Act 1999 \(YJCEA\)](#).

These are a series of provisions to help vulnerable and intimidated witnesses give their best evidence in court and help to relieve some of the stress associated with giving evidence.

Special measures only apply to prosecution and defence witnesses, not to the defendant.

### **Witnesses eligible for assistance on grounds of age or incapacity.**

A witness in criminal proceedings (other than the accused) is eligible for assistance if they are under the age of at the time of the hearing; or the court considers that the quality of evidence given by the witness is likely to be diminished if:

- the witness suffers from mental disorder within the meaning of the [Mental Health Act 1983](#), or otherwise has a significant impairment of intelligence and social functioning
- the witness has a physical disability or is suffering from a physical disorder

See: [Section 16\(2\) Youth Justice and Criminal Evidence Act 1999](#)

For witnesses eligible for assistance on grounds of fear or distress about testifying also see [Section 17 Youth Justice and Criminal Evidence Act 1999](#)



## Special measures

Early engagement with the Crown Prosecution Service is essential when CFI officers and Immigration Compliance and Enforcement officers consider special measures are required for potentially vulnerable and intimidated witnesses

Special measures range from giving evidence mainly by video link or solely by video recording to using screens. Once the witness's eligibility is established, the Crown Prosecution Service (CPS) have to consider:

- if special measures are likely to improve the quality of the evidence given
- which measure would be most appropriate

It is then for the court to consider whether a direction is made, taking into account all the circumstances.

When considering whether to apply for a special measure, you must:

- confirm the witness's views on the measure to be applied for
- either:
  - inform the witness of the measure the court has directed
  - explain to the witness why it is not appropriate to apply for a special measure

The CPS may consider it appropriate to hold a special measures meeting with the witness.

For more information, see: [Care and treatment of victims and witnesses](#).

## Eligibility for special measures

Vulnerable witnesses are defined by section 16 of YJCEA as:

- all child witnesses (under 18)
- 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 Act 1983)
  - have a significant impairment of intelligence and social functioning
  - have a physical disability
  - are suffering from a physical disorder

Being eligible for special measures does not mean the court will automatically grant them. The court has to satisfy itself that the special measure or combination of special measures is likely to maximise the quality of the witness's evidence before granting an application.

It is important not to attempt to categorise witnesses too rigidly. While the legislation distinguishes between vulnerable and intimidated witnesses relating to their eligibility criteria for special measures, it is important to remember a witness may be:

- vulnerable as well as intimidated
- vulnerable but not subject to intimidation
- subject to intimidation but not vulnerable

## Child witnesses

The original distinction between child witnesses in need of special protection and children giving evidence in all other types of cases no longer applies.

The effect of this change to section 21 of YJCEA is to place all child witnesses in the same position regardless of the offence. For more information, see: [Section 100 of Coroners and Justice Act 2009](#).

It is presumed that all child witnesses will usually give their evidence-in-chief (main evidence) by video recorded interview and any further evidence, which is not given by means of a video recording, by live link, unless the court is satisfied it will not improve the quality of the child's evidence.

It must also provide for any evidence given by the witness in the proceedings which is not given by means of a video recording (**whether in chief or otherwise**) to be given by means of a live link in accordance with section 24 see: [Section 21\(3\)\(b\) Youth Justice and Criminal Evidence Act 1999](#)

However, if the court agrees, a child witness may opt out of giving their evidence by either of these methods.

If they do opt out there is a presumption they will give their evidence in court from behind a screen. If the court agrees, the child witness can opt out of using the screen if they do not wish to use it.

When deciding whether or not to agree to the child witness's wishes, the court must be satisfied that it will not diminish the quality of the child's evidence.

## Video recorded - cross examination

CFI and Immigration Compliance and Enforcement officers need to be aware that the special measures under [Section 28](#) of the Youth Justice and Criminal Evidence Act 1999 allows for pre-recorded cross examination of witnesses to take place before trial, regardless of the offence. The recording is then played back during the trial itself, meaning they aren't required to attend the trial in person.

Section 28 of the Youth Justice and Criminal Evidence Act [1999 \(c.23\)](#) ("the Act") provides that where a witness's video recorded interview has been admitted as their evidence in chief under [Section 27 Youth Justice and Criminal Evidence Act 1999](#), the court may also direct that any cross-examination and re-examination of the witness be video recorded and that recording admitted as evidence.

A witness in criminal proceedings can be eligible for a direction under section 28 by virtue of [Section 16](#) (1)(a) of the Act (the witness is under 18 at the time of the

hearing), section 16(1)(b) of the Act (eligibility on the grounds of incapacity), and/or of the Act [Section 17](#) (eligibility on the grounds of fear or distress about testifying).

[New courtroom protections for vulnerable victims available nationwide](#)

[Section 28 for vulnerable victims and witnesses in Crown Courts](#)

## **CPS guidance Pre-trial visual recorded cross-examination (“Section 28”)**

Prosecutors should be aware of the Court of Appeal case of [R v PMH \[2018\] EWCA Crim 2452](#), which outlined areas of best practice for pre-recorded cross-examination:

At the ground rules hearing the judge should discuss with the advocates how and when any limitations on questioning will be explained to the jury.

If this has not happened, or there have been any changes, the judge should discuss with the advocates how any limitations on questioning will be explained to the jury before the recording of the cross examination is played.

The judge can give the jury the standard direction on special measures with a direction on the limitations that the judge has imposed on cross-examination and the reasons for them before the cross examination is played.

The judge should consider if it is necessary to have a further discussion with the advocates before their closing submissions and the summing-up on the limitations imposed and any areas where those limitations have had a material effect. In this way the advocates will know the areas upon which they can address the jury.

In the summing-up the judge should remind the jury of the limitations imposed and any areas identified where they have had a material effect upon the questions asked.

If any written directions are provided to the jury the judge should include with the standard special measures direction a general direction that limitations have been imposed on the cross examination .

Best practice was further clarified in the case of [R v YGM \[2018\] EWCA Crim 2458](#), where the judge agreed to give a direction pointing out to the jury that counsel was not allowed to cross-examine the witness in the same way as he would cross examine another witness, but counsel was not allowed to make further comment in his closing speech:

“We believe that the following is best practice in a case involving cross examination of a vulnerable witness. First, the identification of any limitations on cross-examination should take place at an early stage. We assume that this will occur at the ground rules hearing where the judge will discuss with the advocates the nature and extent of the limitations imposed and whether they are simply as to style or also relate to content. Before the witness is cross examined, it is best practice, (as recommended by the Judicial College) that as well as giving the standard special

measures direction, the trial judge also directs the jury in general terms that limitations have been placed on the defence advocate. If any specific issues of content have been identified that the cross examiner cannot explore, the judge may wish to direct the jury about them after the cross examination is completed. On any view, the judge should direct the jury about them in the summing-up. Finally, we should add that every advocate (and trial judge) is expected to ensure that they are up to date with current best practice in the treatment of vulnerable witnesses.”

For more information see [Special Measures | The Crown Prosecution Service](#)

#### **Related content**

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#### **Related external links**

[CPS Special measures](#)

# Special measures explained: England and Wales

This page explains to criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what special measures are available to vulnerable and intimidated witnesses in England and Wales and what they include.

The special measures available for these witnesses, with the agreement of the court, include:

Special measure	What it does
Screens	May be made available to shield the witness from the defendant.
Live link	<p>This helps the witness to give evidence during the trial from outside the court through a televised link to the courtroom.</p> <p>The witness may be located either within the court building or in a suitable location outside the court.</p>
Evidence given in private	<p>Members of the public and press (except for one named person to represent the press) are excluded from the court if the case involves:</p> <ul style="list-style-type: none"> <li>• sexual offences</li> <li>• intimidation by someone other than the accused</li> </ul>
Removal of wigs and gowns	Judges and barristers will remove their wigs and gowns in Crown courts.
Video recording	<p>The court may admit a video recording with a vulnerable or intimidated witness before the trial as the witness's evidence-in-chief (main evidence).</p> <p>See also <a href="#">Video recorded - cross examination</a></p> <p>For adult complainants (accusers) in sexual offence trials in the Crown court, a video recorded interview is automatically admissible upon application unless it would not:</p> <ul style="list-style-type: none"> <li>• be in the interests of justice</li> </ul>

Special measure	What it does
	<ul style="list-style-type: none"> <li>• maximise the quality of the complainant's evidence</li> </ul> <p>Section 103 of the Coroners and Justice Act 2009 has amended section 27 YJCE Act 1999 on witness giving additional evidence-in-chief after the witness's video-recorded interview has been admitted. See: <a href="#">Section 103 Coroners and Justice Act 2009</a>.</p>
Examination of the witness through an intermediary (available for vulnerable witnesses)	<p>The court may appoint an intermediary to assist the witness to give their evidence at court. They can also provide communication assistance in the investigation stage - you can ask for approval for admission of evidence gathered this way retrospectively (afterwards). The intermediary is allowed to explain questions or answers so far as is necessary to help the witness or the questioner understand them but without changing the substance of the evidence.</p>
Aids to communication (available for vulnerable witnesses)	<p>These may be permitted to help a witness to give their best evidence, whether through:</p> <ul style="list-style-type: none"> <li>• a communicator</li> <li>• an interpreter</li> <li>• a communication aid</li> <li>• a communication technique</li> </ul> <p>providing:</p> <ul style="list-style-type: none"> <li>• you can independently verify the communication</li> <li>• the court understands</li> </ul>

In addition to special measures, the YJCEA 1999 also contains the following provisions intended to help vulnerable or intimidated witnesses to give their best evidence:

Provision	What it does
Mandatory (compulsory) protection of witness from cross-examination by the accused in person.	This means an unrepresented defendant is prohibited from cross-examining vulnerable child and adult

Provision	What it does
	victims in certain classes of cases involving sexual offences.
Discretionary (optional) protection of witness from cross-examination by the accused in person.	In other types of offence, the court has the option to prohibit an unrepresented defendant from cross-examining the victim/witness in person.
Restrictions on evidence and questions about complainant's (accuser's) sexual behaviour.	The act restricts the circumstances in which the defence can question the witness's sexual behaviour in cases of rape and other sexual offences.
Reporting restrictions.	The act restricts the media reporting information that is likely to lead to identifying certain adult witnesses in criminal proceedings.

In addition to the above statutory special measures, the Crown Prosecution Service (CPS) must consider whether the witness would benefit from more informal arrangements such as pre-trial visits and having regular breaks while giving their evidence.

#### **Related content**

[Contents](#)

# Applying for special measures: England and Wales

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what you need to consider before using special measures and how to make the application in England and Wales.

A witness may be eligible for special measures, but they are not automatically available at trial and the Crown Prosecution Service (CPS) must make an application to the court.

Before making the application, the CPS must have sufficient information about the witness and the wishes of the witness, particularly whether the witness actually wants to give evidence using special measures. Some witnesses prefer to give evidence without special measures.

The court needs to be told about any views the witness has generally expressed, and the specific views of the witness when determining who should accompany the witness if they give evidence by live link.

For intimidated witnesses involved in cases in England and Wales, the Youth Justice and Criminal Evidence Act 1999 (YJCEA) lists a number of factors the court must take into account when assessing whether the witness is eligible for any of the special measures. The factors to consider include:

- the nature and alleged circumstances of the offence
- the witness's:
  - age
  - social and cultural background and ethnic origins (if the court considers this relevant)
  - religious beliefs or political opinions (if the court considers this relevant)
  - domestic and employment circumstances (if the court considers this relevant)
  - any views expressed by the witness
- any behaviour towards the witness by:
  - the accused, their family or associates
  - any other witness or co-accused

An early special measures discussion between the investigating case officer and the prosecutor is an opportunity to discuss a vulnerable or intimidated witness's needs.

## Making the application for special measures

The CPS must make the application within set timescales so the court can decide which, if any, of the special measures will be available for the witness.



The CPS must make all applications for special measures to the court in writing. The application must be made as soon as reasonably practical, and never more than:

- 20 days after the defendant pleads not guilty in a magistrates' court
- 10 days after the defendant pleads not guilty in the Crown court

They must serve the application on the court and the defence. The time limit can be extended by applying to the court providing the CPS give an explanation.

Special measures directions are binding until the end of the trial, although courts can alter or discharge a direction if it appears doing it is in the interests of justice.

The prosecution or the defence can apply for the direction to be altered or discharged (or the court may do so of its own accord). But they must show there has been a material change of circumstances since either:

- the court made the direction
- an application to alter the direction was last made

The Crown court has some limited inherent (basic) powers to make measures available to assist witnesses who do not qualify as eligible or who need special measures for reasons other than:

- age
- incapacity
- fear
- distress

These powers pre-date the Youth Justice and Criminal Evidence Act 1999 (YJCEA) and are untouched by it.

There must be a locally agreed process in place to make sure the relevant witness care unit is informed of the applications made for special measures, as well as the direction made by the court, so they can then notify the witness.

For more information about special measures, see:

- [CPS Special measures](#)
- [The Youth Justice and Criminal Evidence Act 1999 \(YJCEA\)](#)

## **Related content**

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# Special measures for witnesses: Scotland

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what to do if you or a witness in your care has specific requirements and what special measures are available in Scotland.

## The Vulnerable Witness (Scotland) Act 2004 and the Victims and Witnesses (Scotland) Act 2014

These acts introduce special measures for witnesses in court proceedings in Scotland. The changes are incorporated into the [Criminal Procedure \(Scotland\) Act 1995](#). This is a significant development in allowing vulnerable witnesses to give their best evidence in a way which is suited to their individual needs. The provision of special measures is to:

- maximise the quality of evidence provided in terms of:
  - completeness
  - coherence
  - accuracy
- make sure witnesses are better supported at court

For special measures, court proceedings are defined as having commenced when the indictment (accusation) or the complaint is served on the accused.

The definition of court under the Vulnerable Witness (Scotland) Act 2004 is either the:

- High Court
- Sheriff court

The term 'trial' means under either:

- solemn procedure in any court
- summary procedure in the sheriff court

For more information on the legislation, see the [Vulnerable Witness \(Scotland\) Act 2004](#) and the [Victims and Witnesses \(Scotland\) Act 2014](#).

## Eligibility for special measures

Vulnerable witnesses are defined by the Criminal Procedure (Scotland) Act 1995 as:

- witnesses under the age of 18 who have the right to give evidence by using standard special measures - the degree of vulnerability determines the most appropriate special measure to use
- any adult where there is a significant risk that the quality of the evidence may be diminished because they are suffering from:
  - a mental disorder (as defined by section 328 of the Mental Health, Care and Treatment Scotland Act 2003)
  - fear or distress in connection with giving evidence at the trial
- a deemed vulnerable witness as defined by section 271 (1)(c) of the Criminal Procedure (Scotland) Act 1995
- a person who is considered to be at significant risk of harm only because they are giving or are due to give evidence in proceedings

For more information, see: [Section 328 Mental Health Care and Treatment Scotland Act 2003](#).

When the court is deciding if a person is a vulnerable witness by fear or distress in connection with giving evidence at the trial, they take into account:

- the nature and circumstances of the alleged offence which the proceedings relate to
- the nature of the evidence which the person is likely to give
- the relationship (if any) between the person and the accused
- the person's age and maturity
- any behaviour towards the person on the part of
  - the accused
  - members of the family or associates of the accused
  - any other person who is likely to be an accused or a witness in the proceeding

The court also takes into account other matters which appear to be relevant, including:

- the person's:
  - social and cultural background and ethnic origins
  - sexual orientation
  - domestic and employment circumstances
- if the person has any:
  - religious beliefs or political opinions
  - physical disability or other physical impairment

## Child witnesses and deemed vulnerable witnesses

For all persons under the age of 18 and for deemed vulnerable witnesses, the party citing (calling) the witness must complete a vulnerable witness notice notifying the court they intend to either:

- use standard special measures
- request to use any of the other special measures

The act also provides special provisions for child witnesses under the age of 12 for certain specified serious offences, which means that they do not need to be present in the court room.

For more information, see: [Special provisions for child under 12 years](#).

## **Vulnerable witnesses other than child witnesses and deemed vulnerable witnesses**

The party citing (calling) an adult vulnerable witness must apply to the court for a vulnerable witness to use special measures.

For more information, see:

- [Vulnerable witness notices](#)
- [Vulnerable witness](#)
- [Witnesses in Scotland](#)
- [Scottish courts](#)

### **Related content**

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# Special measures for witnesses: Northern Ireland

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what to do if you or a witness in your care has specific requirements and what special measures are available in Northern Ireland.

## The Criminal Evidence (Northern Ireland) Order 1999

[The Criminal Evidence \(Northern Ireland\) Order 1999](#) introduces special measures for witnesses in court proceedings in Northern Ireland as amended by [section 7 of the Justice Act \(Northern Ireland\) 2011](#).

Special measures are measures which have been put in place to help vulnerable and intimidated witnesses give their best possible evidence in court. Special measures may be available for:

- prosecution witnesses
- defence witnesses

In some circumstances special measures may be available to the defendant (the person standing trial).

Special measures are not automatically available. The court has to be satisfied that granting special measures is likely to help you to give your best evidence.

## Eligibility for special measures

Vulnerable and intimidated witnesses are eligible for special measures. Vulnerable witnesses include:

- children under 18 years of age
- those who:
  - have a mental disorder
  - are significantly impaired in relation to intelligence and social functioning
  - have a physical disability

## Intimidated witnesses

These are witnesses whose quality of testimony is likely to be diminished by fear or distress at the prospect of giving evidence. Victims in cases of sexual assault are defined as falling into this category.

Other witnesses who may be considered to be intimidated witnesses include:

- those who:

- have experienced domestic violence
- have experienced past or repeat harassment, bullying or repeat victimisation
- self-neglect and self-harm
- are making allegations against professionals or carers
- the elderly and frail
- witnesses to murder

## Applications for special measures

If your case is passed to the Public Prosecution Service (PPS) and you become a prosecution witness, the prosecutor will consider applying for special measures to help you when giving evidence in court.

If you are eligible, they make an application to the court. The judge at that hearing decides whether you should be allowed to use special measures in court.

If a special measures application has been granted, the prosecutor will tell you and explain to you how the special measure or measures will be used in court.

Special measures include:

- screens around the witness box to prevent you from having to see the defendant and the defendant from seeing you - you will still be seen by others in the court including the judge, jury, lawyers, barristers and, in some courts, the public gallery
- giving evidence through a Video link outside the courtroom - you will be able to see the courtroom and people in the courtroom, including the defendant, will be able to see you on a television screen
- giving evidence in private - members of the public and the press can be excluded from the court in appropriate cases
- judges and barristers removing their wigs and gowns in the Crown court to make the proceedings seem less intimidating
- a video recorded interview with you before the trial to be admitted by the court as your evidence - the defence can use a live link or screen when you are cross-examined
- a communicator or interpreter

### Related content

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### Related external links

[The Criminal Evidence \(Northern Ireland\) Order 1999](#)

# Refreshing memory from visually recorded interviews

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about witnesses refreshing their memory where their evidence is visually recorded.

Witnesses are entitled to see a copy of their statement before giving evidence. It is Crown Prosecution Service (CPS) policy that a video recorded interview may be shown to the witness before the trial to refresh their memory unless the video has been ruled inadmissible (not allowed to be used).

You must decide on a case by case basis as to how, when and where you do this. The aim is to help the witness to give their best evidence in court, in particular when being cross-examined.

The issues involved in planning for refreshing a witness's memory are raised at the plea and trial preparation hearing (PTPH). If you want to refresh their memory, the PTPH allows you to decide:

- who is the best person to support the witness while they refresh their memory
- how the witness must be supported during the process
- what will be required for the supporter's role in any subsequent trial

It is the case officer's responsibility to arrange for prosecution witnesses to view their video recorded interviews. You must consult the CPS about:

- where this must take place
- who must be present

You must:

- keep a record of anything said at the viewing
- explain to the witness the purpose of watching the video before the trial
- take the witness's views into account
- inform the witness of any editing to the video - this avoids the witness being surprised, suspicious or confused if the recording does not match precisely their recollection of the interview

The time interval between showing the video to refresh the witness's memory and actually giving evidence must take account of the witness's needs and concentration span. Minimising delay must be balanced against, for example, the difficulty experienced by some witnesses in concentrating through 2 viewings on the same day.

CPS note that many child witnesses may prefer to watch the video at least a day before the trial. This allows the child witness to:

- prepare for the trial
- reduce the stress of giving evidence

It is recommended that you do not arrange the first viewing of the video recording on the morning of the trial. This avoids the child having to view the recording twice in one day.

If the witness loses concentration or becomes distressed during the viewing, a break is necessary.

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# Witness intimidation legislation

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about witness intimidation offences and what to do if you or a witness in your care is subject to intimidation, who to contact and what help is available.

When you consider witness intimidation offences, you must take into account that legislation is different throughout the UK, so you must follow the correct guidance.

This section includes:

- [Witness intimidation : England and Wales](#)
- [Witness Intimidation: Scotland](#)
- [Witness Intimidation: Northern Ireland](#)

## **Related content**

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# Witness intimidation: England and Wales

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office what witness intimidation is and your obligations if you are aware a witness is being intimidated.

[Section 17 Youth Justice and Criminal Evidence Act 1999](#) defines intimidated witnesses as those suffering from fear or distress in relation to testifying in the case.

It defines complainants (accusers) in sexual offences or an offence under section 1 and 2 of the [Modern Slavery Act 2015](#) and witnesses to certain offences involving guns and knives as automatically falling into this category unless they wish to opt out.

The following Witnesses who might be also regarded as intimidated

- victims of:
  - domestic violence
  - racially motivated crime
  - repeat victimisation
- the families of homicide victims
- witnesses who:
  - self-neglect or self-harm
  - are elderly and/or frail

## Intimidation of witnesses, jurors and others

Witness intimidation is a specific offence under section 51 Criminal Justice and Public Order Act

A person commits an offence if:

- he does an act which intimidates, and is intended to intimidate, another person (“the victim”)
- he does the act knowing or believing that the victim is assisting in the investigation of an offence or is a witness or potential witness
  - or a juror or potential juror in proceedings for an offence, and
- he does it intending thereby to cause the investigation or the course of justice to be obstructed, perverted or interfered with

A person commits an offence if:

- he does an act which harms, and is intended to harm, another person
  - or, intending to cause another person to fear harm, he threatens to do an act which would harm that other person
- he does or threatens to do the act knowing or believing that the person harmed or threatened to be harmed (“the victim”)

- or some other person, has assisted in an investigation into an offence or has given evidence or particular evidence in proceedings for an offence, or has acted as a juror or concurred in a particular verdict in proceedings for an offence, and
- he does or threatens to do it because of that knowledge or belief

It is still an offence under section 51 even if they do any of the above:

- when the victim is not present
- to a person other than the victim

The harm or intimidation that may be done or threatened may be financial as well as physical (either to the person or a person's property).

For more information, see: [Section 51 Criminal Justice and Public Order Act 1994](#).

Witness intimidation is taken extremely seriously by prosecuting authorities and provisions are made in legislation to provide support for witnesses suffering from intimidation. A vulnerable or intimidated witness is eligible for special measures under sections 16 to 33 of the Youth Justice and Criminal Evidence Act 1999.

For more information on special measures, see:

- [Special measures for witnesses](#)
- [The Youth Justice and Criminal Evidence Act 1999 \(YJCEA\)](#)

You must always consider using the appropriate bail conditions if there is a fear of:

- attack
- intimidation
- harassment

If a person makes a statement and is unfit to attend court through fear, you must notify the Crown Prosecution Service (CPS). You can then consider whether to make an application under section 116 Criminal Justice Act 2003 for the statement to still be admissible as evidence even if it is not made in oral evidence in court.

For more information, see [Section 116 Criminal Justice Act 2003](#).

The CPS is aware of the potential for concerns and fears of all of those involved in the prosecution process. Witnesses must be given as much notice as possible of the date and time they are required to attend court.

Priority is made when preparing and listing cases involving child witnesses and those at risk of being intimidated.

## Acting on intimidation

If you think a witness in your case is at risk of intimidation, you must bring this to the attention of the officer in charge of the investigation, and they will either:

- provide you with advice
- refer you to the appropriate person that can assist

You must remember it is an offence to intimidate a witness:

- before a trial
- during a trial
- up to a year after a trial is finished

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### Official sensitive - start of section

The information on this page has been removed as it is restricted for internal Home Office use.

### Official sensitive - end of section

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#### Related links

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#### External links

[CPS care and treatment of victims and witnesses](#)

# Witness intimidation: Scotland

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about witness intimidation in Scotland and your obligations if you are aware of a witness being intimidated.

## Offences against the administration of justice

There is not a specific offence of witness intimidation within Scottish legislation, therefore offences against the administration of justice contrary to common law are used in cases of witness intimidation.

Offences against the administration of justice fall into 3 categories:

- attempting to pervert the course of justice
- perjury
- contempt of court

Attempting to pervert the course of justice can be committed when a person:

- knowingly makes a false statement to the police
- escapes from lawful custody
- intimidates a witness to proceedings

Criminal law and procedure in Scotland is different from the rest of the UK. The main distinction is that Scottish criminal law is based principally on a common law tradition. So rather than relying on acts of parliament or statute laws for its authority, much of the criminal law relies on:

- past decisions of the courts
- writings of respected legal scholars

## Common law

The definitions of crimes and offences come from:

- precedent (successive) decisions of the superior criminal courts
- writings of highly respected legal commentators

These commentators are known as the 'institutional writers', whose views are recorded (given) authoritative status by the:

- courts
- legal scholars
- legal profession

Scottish criminal law, however, is not entirely dependent on common law. Scotland has developed a mixed system of criminal law with an increasing number of crimes and offences appearing in the statute law books.

## Perjury

Perjury occurs when a witness divulges (gives) false evidence in any court proceedings. The criminal intent of this offence is the witness must either:

- knowingly giving a false statement
- have an indifferent attitude as to the truth of the statement

Inducing a witness to give false evidence in court amounts to subornation (aiding) of perjury.

## Contempt of court

Contempt of court is a person's conduct that challenges or insults the authority of the court or the supremacy of the law itself.

There are 2 forms of the offence of contempt of court:

- contempt in the face of court
- publication of material likely to prejudice court proceedings - this specific form is governed by the Contempt of Court Act 1981

Contempt of court usually arises out of prevaricating (speaking with the intent to deceive) or failure to appear in court by a witness when they are required to do so.

The test for contempt of court was explained in the case of *Caldwell v Normand* where Lord Justice General Hope said the question was whether the witness was willfully intending to disrespect or was acting in any way against the court attempting to pervert the course of justice.

For more information on offences against the administration of justice see [Judicial Institute for Scotland Jury Manual](#)

## Acting on intimidation

If you think a witness in your case is at risk of intimidation, you must bring this to the attention of the officer in charge of the investigation, and they will either:

- provide you with advice
- refer you to the appropriate person that can assist

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[Scotland judiciary jury manual](#)

# Witness intimidation: Northern Ireland

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about witness intimidation in Northern Ireland and your obligations if you are aware a witness is being intimidated.

Witness intimidation is a specific offence under article 47(1) of the Criminal Justice Northern Ireland Order 1996 and a person commits an offence if they:

- act in a way which intimidates, and is intended to intimidate, that other person
- know or believe that the other person is:
  - assisting in the investigation of an offence
  - a witness
  - a potential witness
  - a juror
  - a potential juror in proceedings for an offence
- intend to cause the investigation or the course of justice to be obstructed, perverted or interfered with

A person is guilty of an offence if they:

- do or threaten to do to another person an act which:
  - harms
  - would harm
  - is intended to harm
- know or believe that the other person, or some other person, has:
  - assisted in an investigation into an offence
  - given evidence
  - particular evidence
  - acted as a juror
  - concurred in a particular verdict in proceedings for an offence
- threaten to do the act because of what (as in the list above) they know or believe
- do an act to another person to intimidate or harm them but also when an intentional act is done to a third person to intimidate or harm the person they are directing the act at

The harm or intimidation that may be done or threatened may be financial as well as physical (either to the person or a person's property).

For more information, see: [Article 47 \(1\) Criminal Justice \(Northern Ireland\) 1996](#).

You can also consider, depending on the circumstances, the offence of attempting to or perverting the course of justice.

For more information see: [Article 3 \(1\) The Criminal Attempts and Conspiracy \(Northern Ireland\) Order 1983](#).



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# Witness expenses

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about how witnesses in your case can claim expenses they have had to pay due to giving evidence in court.

## What expenses can be claimed

Expenses can be claimed by external witnesses for:

- travelling
- meals and refreshments
- loss of earnings
- child care
- overnight subsistence

The witness's employer does not have to pay them for time off work when they appear in court to give evidence on behalf of the Home Office.

A court official can give you an expenses form for any witnesses wishing to claim expenses for going to court. For more information on witness expenses, see: [CPS expenses](#).

If you are a witness in a case in Scotland the Crown Office and Prosecutor Fiscal (COPFS) are responsible for paying witnesses expenses, for more information, see: [COPFS Witnesses](#)

If you are a witness in a case in Northern Ireland, the Public Prosecution Service (PPS) has set up dedicated community liaison teams (CLT), who provide a range of services to victims and witnesses for the prosecution who are involved in magistrates' and youth court cases.

Victim and/or witness letters of notification to attend court are produced by CLT and are issued to witnesses. These include expenses forms, guidance notes and support service information leaflets.

For more information, see: [Victim and witness-information](#)

### Related links

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# At the end of the trial

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office how witnesses are informed of the outcome when the trial finishes.

All witnesses must be informed of the progress of the case. At the end of the trial the following must be done:

The witness care unit:

- notifies external witnesses of the outcome of the case and, if relevant, the sentence issued
- explains what the sentence means

The officer in the case must:

- inform all witnesses of the trial outcome
- keep the press office up to date with the trial outcome
- email Press Office

For more information on what to provide to the press office, see: Dealing with the media.

## Related links

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