



Department of
Justice

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DRAFT WITNESS CHARTER

**A DEPARTMENT OF JUSTICE
CONSULTATION**

JULY 2016

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MINISTER'S FOREWORD

Understandably being a witness to a crime and having to give information to the police, a defence legal representative or at court can be challenging. I very much recognise the importance of ensuring that those that have to give evidence are provided with appropriate information and that the support services that we currently provide are fit for purpose. All those that provide evidence in criminal cases make a valuable contribution to the operation and effectiveness of the criminal justice system. The system very much depends on the honesty and truthfulness of the witnesses involved in the case, regardless of the severity of the incident.

Central to the criminal justice system is ensuring that witnesses of crime can provide best evidence to the police and at court, and that justice is done, whether that be through the conviction or acquittal of a defendant.

The Witness Charter is intended to raise the bar by providing witnesses with relevant information and clearly setting out what they can expect as they move through the criminal justice system. The Charter sets out how this applies to both prosecution and defence witnesses on their journey through the criminal justice system. It covers how witnesses are to be treated by the police where they are a witness to a crime, as well as the standard of care they can expect from a range of criminal justice system service providers. The Charter also deals with the standards that will apply to defence witnesses, where they may have to give evidence at court.

The Charter makes clear to criminal justice system service providers precisely what their duties are in ensuring that witnesses receive information and support, tailored to their needs as much as possible. It also sets out the measures that a defence witness can expect to receive from a defence solicitor.

This consultation seeks views on the content and format of the Charter. It is your opportunity to tell my Department what you think and your chance to help us deliver an improved service to those that have witnessed a crime.

Claire Sugden MLA

Minister of Justice

ABOUT THIS CONSULTATION

This consultation seeks views on the Witness Charter.

We invite comments on the Witness Charter from members of the public, key stakeholders as well as organisations and individuals who have an interest in this area. **We are particularly interested to hear from those who have previously witnessed a crime.**

We would encourage representatives of organisations to seek the views of those who have witnessed a crime, as part of their consultation responses. The Department is also willing to engage further with stakeholders, on the content of the Witness Charter, should they find that helpful.

Responses or requests for further information should be provided by 5pm on **Tuesday 27 September 2016** (please note that it may not be possible to accept consultation responses after this date). You can respond to the consultation exercise by email, post or online at www.surveymonkey.co.uk/r/Witness_Charter_Consultation_Response_Form. However, please note that the online facility is limited to 2000 characters per question – around 20 lines of typed text.

Further information on how to respond can be found at page 15.

INTRODUCTION

1. The Department of Justice is consulting on a new Witness Charter. The purpose of the Witness Charter is to set out the entitlements or standards that witnesses of crime in Northern Ireland can expect to receive from a range of service providers and also defence legal representatives.

2. In June 2013 the Department published the five-year victim and witness strategy 'Making a difference to victims and witnesses of crime – Improving access to justice, services and support'.¹ The strategy aims to provide better quality services which respond to the needs of victims and witnesses, and secure a more positive experience for all those who have contact with the criminal justice system. One of the key actions included in the strategy is to develop a Witness Charter. This consultation exercise forms part of that commitment. It is intended that the Charter will be placed on a statutory footing in 2017.

3. The purpose of this consultation is to seek views from all interested parties on the content of the Charter particularly from anyone who has witnessed a crime and been involved with the criminal justice system. The Department welcomes views on anything included in this consultation paper; in particular, we are interested in comments on the questions posed. We do, however, welcome any other detailed points that you wish to make.

¹ www.justice-ni.gov.uk/publications/victims-and-witnesses-strategy-2013-2018

KEY ISSUES

Format

4. The criminal justice system may at times appear confusing to anyone who has witnessed a crime and may have to give evidence. The Witness Charter, similar to the Victim Charter, is designed to focus on a witness' journey through the criminal justice system, covering the key stages from reporting having witnessed a crime through to a decision in court. We consider that this will enable a witness to identify where they are in the process, know who they will be dealing with, know what services may be available, know what is likely to happen next and identify what they can expect to receive in relation to entitlements, standards, information or support.

5. In order to increase understanding of the process, a flow chart setting out a journey through the system and an overview of service providers is included in the Charter.

Q1. Do you think that the 'witness journey' approach used in the Witness Charter is the right one?

Who is the Charter for?

6. The Witness Charter sets out who the Charter is for. It includes all those who have witnessed a crime or can provide evidence. This includes prosecution witnesses, who give evidence for the prosecution, as well as defence witnesses who give evidence for the defence. The Public Prosecution Service decide whether to charge someone with a crime and take them to court. The defence are there to help a person that may have broken the law. A separate Annex includes provision relating to expert witnesses, such as

medical professionals. The Charter does not apply to defendants where they are to give evidence at court.

7. In some instances, where you are a child witness, information may be provided to your parent or a representative instead of, or in addition to, you.

Q2. Do you have any comments on who the Witness Charter is for, i.e. prosecution, defence and expert witnesses?

Entitlements, service provision and standards

8. The Witness Charter has been developed to take account of the commitments in the five-year victim and witness strategy and the Justice Committee's inquiry into the criminal justice services available to victims and witnesses of crime. Key elements of the Charter relate to:

- how witnesses are to be treated;
- being understood and being able to understand information provided;
- ensuring witnesses are provided with relevant services or access to information as they move through the criminal justice system;
- updating witnesses, where they have to give evidence, and providing relevant information relating to this;
- consideration of how witnesses may be assisted to give their best evidence;
- what support services are available and being able to bring someone for support; and
- witnesses being able to raise concerns if unhappy with how they have been dealt with.

9. A short overview of entitlements and standards is contained within the Charter.

Q3. Does the Witness Charter contain the key entitlements, standards and/or services that you would expect to see in it?

Q4. Is there anything that you think should be added to, or omitted from, the Witness Charter?

Q5. Do you have any other comments on the content of the Witness Charter?

Incorporating prosecution, defence and expert witnesses within the Charter

10. The Witness Charter incorporates three type of witness:

- prosecution witnesses;
- defence witnesses; and
- expert witnesses.

11. As the services, support or standards available will vary for each type of witness it is necessary to specify in the Witness Charter what each type of witness is entitled to, or can expect to receive, on their journey through the criminal justice system. As expert witnesses are quite distinct from both prosecution and defence witnesses they have been dealt with in an Annex.

12. The services and support available for both prosecution and defence witnesses have been included as they arise in their respective journeys. The approach adopted has been to set out the position of each type of witness rather than cover this within two separate documents. It is felt that two

separate documents, or sections, could result in a lot of duplication and a much lengthier document.

Q6. Do you think that the Witness Charter adequately sets out how it applies to each of the categories of witness? If not, do you consider that any further information should be provided?

Accessibility of the summary document and overview material

13. The Charter is intended to set out the entitlements, standards and/or services available to witnesses at the key points of the criminal justice process. In light of this is a detailed document. It is supplemented with a short summary document that contains a two page overview of the key elements of the Charter. In addition, the Charter itself contains an overview diagram of the criminal justice process and service providers. This documentation is to ensure that the key aspects of the Charter are as accessible as possible.

14. An easy read version of the summary document has also been prepared. Alternative formats can be provided on request. Following consultation the summary Charter will be translated into Chinese Simple/Mandarin, Latvian, Lithuanian, Polish, Portuguese and Romanian. These are the languages for which interpretation is most commonly used at police and court stages.

Q7. The Witness Charter is a lengthy document. In light of this it contains a two page overview and flowchart. A summary document, easy read document and Young Person's Guide to the Charter are also available. Following consultation the summary document will be

translated into the six languages for which interpretation is most commonly used at police or court stage.

- (i) Are these documents useful?**
- (ii) Do they contain the right level of information?**
- (iii) Is there anything else that you think should be added to or omitted from them?**
- (iv) Have you any suggestions about improving them or making them more accessible?**

Awareness of the Witness Charter

15. Witnesses have indicated that at times they are uncertain of what the criminal justice system involves, what the next step of the process is, which organisation they are dealing with, what support is available and what is happening in relation to the case. The Witness Charter is intended to inform witnesses so that they are clearer on what to expect from the criminal justice system, what services or measures are available and when they will receive information.

Q8. We are keen to ensure that as many people as possible are aware of the Witness Charter and the supporting documents. Do you have any suggestions on how we can best promote awareness of the Witness Charter?

Monitoring the operation of the Charter

16. The Witness Charter will be placed on a statutory footing in 2017. Once in place we will be keen to ensure that the Witness Charter can be further developed over time to reflect policy developments and emerging good

practice. To ensure that the Witness Charter is effective and meets the needs of witnesses the Department will want to take account of how it operates in practice so that this can be considered in future reviews of the Charter.

Q9. Do you have any comments on how best to take account of the views of witnesses on the operation of the Witness Charter?

NEXT STEPS

17. Once the consultation exercise has finished the Department will analyse the responses and consider what changes need to be made to the Charter in light of this. A paper will be prepared providing an overview of the consultation responses, as well as dealing with the issues raised. The Justice Minister and Justice Committee will be briefed on the consultation outcome before final decisions are taken on the content of the Witness Charter.

18. Responses to the consultation exercise, a summary of consultation responses and the Department's response to the consultation exercise will be published on the Department of Justice's website in the autumn. Following this the Justice Minister will undertake to place the Witness Charter on a statutory footing by March 2017, subject to the approval of the Assembly. The final Witness Charter will be made available on the Department of Justice website at that time.

EQUALITY IMPACT

Equality implications

19. Section 75 of the Northern Ireland Act 1998 requires public authorities to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

and have regard to promoting good relations between persons of different religious belief, political opinion or racial group. Public authorities are also required to meet legislative obligations under the Disability Discrimination Order, particularly in the formation of public policy making.

20. The Department of Justice is fully committed to fulfilling its Section 75 obligations on the promotion of equality of opportunity, good relations and meeting legislative requirements in Northern Ireland.

21. The options set out in this policy consultation have been subjected to an Equality Impact Screening, as well as the Department's shared future proofing.

22. There have been no adverse equality impacts identified and initial pre-policy screening has not identified any other Section 75 impacts at this stage. However, we would welcome views from respondents who might identify any area in which they feel the approaches outlined in the document could have adverse equality impacts. The full equality screening form is available at:

www.justice-ni.gov.uk/consultations/consultation-draft-witness-charter.

RESPONDING TO THIS CONSULTATION

Duration

23. The consultation will run for 12 weeks, four weeks longer than the standard consultation period given that the consultation is taking place over the summer.

Closing date for responses

24. The closing date for responses to the consultation is **5pm on Tuesday 27 September 2016** (please note that it may not be possible to accept consultation responses after this date).

Questions

25. The consultation questions are included throughout this document, at the end of each section. Comments are invited on the specific issues highlighted or on any of the other issues contained in this paper.

Enquiries and responses

26. Please send any responses, queries, or requests for information to:

By e-mail: DOJVictW@justice-ni.x.gsi.gov.uk

In writing: Witness Charter Consultation
Victims and Witnesses Branch
Department of Justice
Room A4.01
Castle Buildings
Stormont Estate
Belfast, BT4 3SG

By phone: 028 9052 0550

By text phone: 028 9052 7668

Online: You may also respond to the consultation exercise online at www.surveymonkey.co.uk/r/Witness_Charter_Consultation_Response_Form. However, please note that this online facility is limited to 2000 characters per question – around 20 lines of typed text.

Who is responding?

27. When responding, please state whether you are making a submission as an individual or representing an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Alternative formats

28. An electronic version of this consultation document is available to download from the Department of Justice website:

www.justice-ni.gov.uk/consultations/consultation-draft-witness-charter

29. Hard copies of this consultation document, and copies in other formats (including Braille, large print, computer disk, etc.), can be made available on request. If it would assist you to access the document in an alternative format or language other than English, please let us know and we will do our best to assist you.

Publication of responses

30. The Department intends to publish responses to the consultation (the contact details of private individuals will be removed prior to publication) and a summary of responses online following completion of the consultation process. Please tell us if you don't want your response to be published. Any personal data will be handled in accordance with the Data Protection Act 1998.

Respondents should also be aware that the Department's obligations under the Freedom of Information Act 2000 may require that any responses not subject to specific exemptions under the Act be communicated to third parties on request.

Complaints

31. If you have any concerns about the way this consultation process has been handled, you should send them to the following address:

Standards Unit
Department of Justice
Knockview Buildings
Stormont Estate
Belfast
BT4 3SL

Email: Standardsunit@justice-ni.x.gsi.gov.uk

CONSULTATION QUESTIONNAIRE

Draft Witness Charter A Department of Justice Consultation

RESPONDING TO THE CONSULTATION

The Department of Justice is seeking your views on the Witness Charter, in terms of specific issues highlighted in the consultation paper or any other general comments you may have. Please use this questionnaire to tell us your views. Please send your response, no later than **5pm on Tuesday 27 September 2016**, to:

Witness Charter Consultation
Victims and Witnesses Branch
Department of Justice
Room A4.01
Castle Buildings
Stormont Estate
Belfast, BT4 3SG

Telephone: 028 9052 0550

Textphone: 028 9052 7668

Email: DOJVictW@justice-ni.x.gsi.gov.uk

PUBLICATION OF RESPONSES

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Title: Mr / Ms / Mrs / Miss / Dr

Forename

Surname

Organisation Name (if applicable)

Postal Address

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Postcode	Phone
Email	

Question 1: Do you think that the 'witness journey' approach used in the Witness Charter is the right one?

Question 2: Do you have any comments on who the Witness Charter is for, i.e. prosecution, defence and expert witnesses?

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