

# Witness Charter

A Charter for witnesses of crime

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## A Charter for Witnesses of Crime

*Laid before the Northern Ireland Assembly by the Department of Justice under section 31(2) of the Justice (Northern Ireland) Act 2015*

*January 2017*



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## Section 1: Introduction

1. The Witness Charter sets out the standards of care and entitlements you can expect if you are a witness to a crime in Northern Ireland. The services and measures provided under the Charter are free of charge to you as a witness. The Charter sets out the provisions for both prosecution witnesses, who give evidence for the prosecution, and defence witness who give evidence for the defence.
2. 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. The Witness Charter does not apply to defendants, including where they are to give evidence at court.
3. As a witness you have a legitimate interest in knowing how the system operates and your role in it, how you can expect to be treated by service providers, what information you will receive as you move through the criminal justice system and when and what services you will receive. If you are a defence witness you will also want to receive information on your role in the criminal justice process and what you can expect, where you are to give evidence.

## Purpose of the Charter

4. The Charter sets out the services to be provided to witnesses of criminal conduct, by a range of criminal justice service providers in Northern Ireland (see later in this section for more information on service providers). It also sets out how defence witnesses will be dealt with by defence legal representatives. Criminal conduct is behaviour that constitutes an offence. For ease of understanding the term 'crime' will be used instead of criminal conduct. This Charter applies in relation to criminal offences committed in Northern Ireland and to criminal proceedings that take place in Northern Ireland. The Charter service providers may provide support and services to you outside the scope of this Charter on a discretionary basis. The Charter deals with services that are currently provided to witnesses in criminal proceedings.
5. The purpose of the Charter is to ensure that witnesses of crime receive appropriate information, support and protection and are able to participate in criminal proceedings,<sup>1</sup> when giving evidence to the police or at court. The Charter sets out what your entitlements are as well as the services that you can expect to receive and the standards that will apply. Service providers and defence legal representatives will take account of your particular needs (in relation to special measures,<sup>2</sup> which are intended to assist witnesses to give their best evidence) wherever possible and where they know about these.
6. Further information on the types of special measures (video recorded statements; screens/curtains in the courtroom; a live video link; removal of wigs and gowns by judges; giving evidence in private – for cases involving a sexual offence, trafficking or slavery; the use of a Registered Intermediary; or communication aids) can be found at paragraph 60 and in **Section 4**.
7. You may decide that there are measures, support, services or information that you do not wish to receive; you can inform the relevant criminal justice organisations or defence legal representative (where appropriate) about this (unless the information must be provided as you are taking part in proceedings).
8. You should be treated by all those who work in the criminal justice system in a respectful and professional manner, without any kind of discrimination.

1 Criminal proceedings will start when a crime has occurred and is reported to the police.

2 [www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Special%20Measures%20Leaflet.pdf](http://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Special%20Measures%20Leaflet.pdf)

9. The Charter makes clear who you can contact if you have a query, need more information or if you are not happy about how you have been treated. If you are a prosecution witness your key points of contact are likely to be with the police or the Victim and Witness Care Unit. You can also contact Victim Support NI should you have any queries and are unclear who you should get in touch with. If you are a defence witness your main point of contact will be the defence legal representative. Further information, including contact details for a range of organisations, can be found at **Annexes C** and **D**.

## Who is this Charter for?

10. For the purpose of this Charter a witness<sup>3</sup> is an individual who:
- (i) has witnessed criminal or other conduct in relation to which they may be, or have been, called to give evidence in criminal proceedings;
  - (ii) is able to provide or has provided information that might assist a criminal investigation or might be or has been used in evidence in criminal proceedings; or
  - (iii) is called or might be called to give evidence in criminal proceedings for any other reason.
11. This Charter applies to:
- witnesses of a crime, both prosecution witnesses giving evidence for the prosecution and defence witnesses giving evidence for the defence; and
  - expert witnesses such as
    - police (evidence gathering);
    - forensic (scene of crime); and
    - medical (examination of victims).

The Charter sets out the services that are currently available to prosecution, defence and expert witnesses respectively.

12. Expert witnesses are separately dealt with in **Annex A**. An expert witness can most easily be described as a person that has been called to give evidence in order to advise on matters requiring specialist expertise outside the knowledge of the court. Typically it will be a person giving evidence in a professional capacity in some of the areas set out above. While acknowledging that the police are not typically referred to as expert witnesses at court they are referred to as such within the context of this Charter where they are giving evidence in their professional capacity as a police officer. This is intended to ensure that they are provided with the same level of service as available to expert witnesses more generally. Police officers are deemed expert witnesses only for the purpose of this Charter, and not in so far as it touches on the expenses to be paid by criminal justice organisations to expert witnesses.
13. Not all services are available to expert witnesses. This is largely due to the fact that the Charter focuses on the assistance that is available to defence and prosecution witnesses, in the form of special measures.
14. If you are a victim of a crime and have been called as a witness, you have additional entitlements that are set out in the Victim Charter.<sup>4</sup>
15. If you are a young witness to a crime, who has been called by the Public Prosecution Service, there is additional support to help you give your evidence to the police and at court, as set out elsewhere

<sup>3</sup> Section 30 of the Justice Act (Northern Ireland) 2015 ([www.legislation.gov.uk/nia/2015/9/section/30/enacted](http://www.legislation.gov.uk/nia/2015/9/section/30/enacted)) sets out what is meant by a 'witness' for the purpose of this Charter. The term 'individual' does not apply to an entity such as a business, company or public body.

<sup>4</sup> [www.justice-ni.gov.uk/sites/default/files/publications/doj/victim-charter.pdf](http://www.justice-ni.gov.uk/sites/default/files/publications/doj/victim-charter.pdf)



in the Charter. More information about this process can also be found in the Young Witness Pack and the Young Person's Guide to the Witness Charter. Witness support service providers will give you a copy of this pack or tell you where it can be found. Where you are a young witness of a crime services may be provided to your parent (or person with parental responsibility) as well as to you or may be given to your parent instead of you, for example due to your young age. The best interests of the child will be a primary consideration, a matter which is set out in the UN Convention on the Rights of the Child. Where the witness is a child consideration must be given as to whether the child is a 'looked after child' as defined in the Children (Northern Ireland) Order 1995 or a separated/unaccompanied child who may have been trafficked into Northern Ireland. In such cases the relevant Health and Social Care Trust has a duty to act as a 'corporate parent' in respect of looked after children. The appointed social worker (and in the case of child victims and potential victims of human trafficking and separated children, an Independent Guardian under Section 21 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015) should be involved at the earliest stage, and throughout the case as appropriate, to ensure that they support the young witness and fulfil their statutory responsibilities.

16. The UN Convention on the Rights of the Child, as well as the Guidelines in Justice in Matters involving Child Victims and Witness of Crime, also deals with a range of other rights which are of relevance in the context of this Charter, and which are dealt with at various points. This includes respect for the views of the child as well as rights to be treated with dignity and compassion, to be informed, to be heard and express views, participation, privacy, safety and protection from violence (in the context of intimidation), special measures and the rights of a child with a disability. A number of these are provided for explicitly in the Charter as well as through consideration of, and application for, the special measures that can be used to assist vulnerable and intimidated victims and witnesses to give their evidence to the police and at court.
17. A glossary of terms used in the Charter is included at **Annex B**.
18. In some cases it may not be possible to provide all of the relevant services and/or standards set out in the Charter, due to individual operational or practical constraints, for example where a case moves extremely quickly. Service providers and defence legal representatives will, however, meet these as far as is possible in the circumstances.
19. In addition, if there is legislation governing service provision and/or standards (for example, in relation to special measures) the Charter applies in so far as it is compatible with that legislation.

## Alternative formats

20. This Charter is supplemented by a shorter summary version. An easy read version of the summary and a young person's guide to the Charter are also available. Following consultation the summary document will be made available in a number of other languages besides English (Latvian, Lithuanian, Mandarin, Polish, Portuguese and Romanian).<sup>5</sup> All of these documents will be made available at [www.nidirect.gov.uk/witnesscharter](http://www.nidirect.gov.uk/witnesscharter) at that point. Hard copies and copies in other formats (including Braille, large print, a language other than those specified, audio version, etc.) can be made available on request. If it would help you to have one of these documents in an alternative format or language, please let us know by contacting Victims and Witnesses Branch and we will do our best to assist you.

<sup>5</sup> This is based on those languages for which an interpreter is most commonly needed in the criminal justice system (at police and court stage).

## Section 2: A short guide to the criminal justice system

### Overview of service providers

For the purpose of this Witness Charter references to service providers include some or all of the bodies below, as appropriate. Defence legal representatives are not encompassed within this, rather are simply referred to using that particular phrase.

The **National Society for the Prevention of Cruelty to Children Young Witness Service** (NSPCC)<sup>6</sup> provides support and information for children and young people under the age of 18, at the time of the hearing, who may have to give evidence in court for the prosecution. The service also aims to help parents and carers support their child through the court process.

The **Northern Ireland Courts and Tribunals Service**<sup>7</sup> is responsible for managing and supporting the operation of the courts, as well as tribunals, regionally.

There are a number of Northern Ireland police services as follows:

- The **Police Service of Northern Ireland**<sup>8</sup> aims to keep people safe through prevention of crime, protection of people and communities; particularly the most vulnerable and detecting those who commit crime and bringing them to justice.
- The **Belfast International Airport Constabulary** is a small, specialised police service responsible for policing Belfast International Airport.
- The **Belfast Harbour Police** is a small, specialised police service with the responsibility of policing the Port of Belfast.<sup>9</sup>

For the purpose of this Charter these are referred to collectively as the police.

The **Public Prosecution Service**<sup>10</sup> aims to provide an independent, fair and effective prosecution service. The Public Prosecution Service is committed to making sure victims' and witnesses' best interests are taken into account as far as possible. The Public Prosecution Service is not the legal representative for victims and witnesses, given that they have a duty to be independent in the exercise of their functions. However, they do provide a range of services to prosecution witnesses.

The **Victim and Witness Care Unit** (run by the Public Prosecution Service in partnership with the Police Service of Northern Ireland) provides a single point of contact for victims and prosecution witnesses, for as much of the prosecution process as possible.

**Victim Support NI**<sup>11</sup> helps people who have been a victim of, or prosecution witness to, a crime. They provide emotional support, information and practical help to victims, prosecution witnesses and others affected by crime through compensation, community and witness services. Victim Support NI can refer you to specialist support services, where appropriate and available.

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6 [www.nspcc.org.uk/what-we-do/the-work-we-do/services-for-children/young-witness-service/young-witness-service\\_wda100687.html](http://www.nspcc.org.uk/what-we-do/the-work-we-do/services-for-children/young-witness-service/young-witness-service_wda100687.html)

7 [www.courtsni.gov.uk/en-GB/pages/default.aspx](http://www.courtsni.gov.uk/en-GB/pages/default.aspx)

8 [www.psnipolice.uk/](http://www.psnipolice.uk/)

9 [www.belfast-harbour.co.uk/corporate/policing](http://www.belfast-harbour.co.uk/corporate/policing)

10 [www.ppsni.gov.uk/](http://www.ppsni.gov.uk/)

11 [www.victimsupportni.co.uk/](http://www.victimsupportni.co.uk/)

21. These organisations are referred to as ‘service providers’ in the Charter. Contact details for the organisations can be found in **Annex C**. The Charter deals with services that are currently available for each type of witness. Other bodies may provide services to you, as a witness, but are not covered by the Charter.
22. All service providers must include information about the Witness Charter on their websites and, where appropriate, make available other relevant web pages where additional information can be found. They must also include a way for you to comment on the services that they provide under the Charter.
23. Defence legal representatives will deal with defence witnesses under this Charter. They are not referred to as service providers for the purpose of this Charter, given that they are individual entities governed by the Law Society of Northern Ireland and the Bar of Northern Ireland. The Charter sets out how defence witnesses can expect to be dealt with on their journey through the criminal justice system.
24. A short overview of the criminal justice process and the witness journey through the criminal justice system is provided in **Section 5**, while a summary of terms used in the Charter is included at **Annex B**.
25. In order to provide you with a service it is important that your contact details are correct. Should you move house or change your telephone number while a case is ongoing you should advise the police or the defence legal representative, as appropriate, about the change in your contact details. The police may be able to make this information available to most other service providers (in some instances this may not apply to the voluntary witness support services).

## Criminal justice system guide

26. If you have witnessed a crime taking place you should report it to the police as soon as possible. If you are a potential defence witness, you may be asked to make a statement to the defendant’s legal representative; in certain circumstances the police may also ask you to make a statement.
27. If necessary, the police will take a written, or video recorded, statement from you that sets out what happened. The police will carry out an assessment to consider what help and support you may need to give evidence to them. You can be supported by a friend, family member, support worker from a voluntary organisation or other person (unless this is not considered to be in your best interests or would affect the investigation). Sign language facilities are also available, if you need these to give evidence to the police and at court. If you have hearing difficulties you should advise those that you come into contact with, so that they are aware of this and they can answer any queries you may have.
28. The Public Prosecution Service will make a decision as to whether or not to prosecute, based on the test for prosecution, which has two elements:
  - The evidential test – is there enough admissible evidence to provide a reasonable prospect of a conviction?
  - The public interest test – is it in the public interest to prosecute?

Both elements of the test must be met in order to prosecute.

29. If a decision is made to prosecute someone through the courts and the suspect pleads ‘guilty’ you normally won’t need to attend court or give evidence. In some cases you may still have to give

evidence.<sup>12</sup> If the suspect pleads 'not guilty', and you are a prosecution witness, the Victim and Witness Care Unit will inform you if you have to give evidence. If you are a defence witness and have to give evidence the defence legal representative will advise you of this.

30. If you are a prosecution witness the Victim and Witness Care Unit will inform you of the date, time and location for giving evidence and will carry out a needs assessment to identify any support or potential eligibility for special measures<sup>13</sup> that may help you give your best evidence. If it is considered that special measures could help achieve this the police, the Victim and Witness Care Unit or the Public Prosecution Service will discuss this with you. You can also ask a witness support service provider to arrange a visit to the court before the trial.
31. If you are a defence witness the defence legal representative will advise you of the date, time and location for giving evidence. They will consider your potential eligibility for special measures, taking account of whether you are vulnerable or intimidated where they are aware of this or you have let them know that special measures may help you to give your best evidence. You, or the defence legal representative, can contact the Northern Ireland Courts and Tribunals Service should you wish to visit the court beforehand.
32. Final decisions on the granting of special measures, whether you are a prosecution or defence witness, will be a matter for the judge.
33. If you are a prosecution witness you will be introduced to someone from the Public Prosecution Service at court. This can involve the Public Prosecution Service engaging independent barristers to handle prosecution cases. Defence witnesses will normally have already met the defence legal representative before coming to court. However, in some cases, for a variety of reasons if you are a defence witness you may only meet them on the day of court.
34. If possible a witness support service provider will offer prosecution witnesses a separate room to wait in. This may be a dedicated room or shared with other service providers.
35. The Northern Ireland Courts and Tribunals Service will arrange to put in place any special measures that have been granted, whether you are a prosecution or defence witness.
36. All criminal cases, even the most serious, begin in a Magistrates' Court. The Magistrates' Court hears and decides on less serious criminal cases, cases involving young people and some civil and family cases. When a criminal case takes place in a Magistrates' Court, the District Judge (Magistrates' Court) listens to the evidence and decides if the defendant is guilty. In the Youth Court (for defendants aged 17 and under) the District Judge will hear a case with two lay members. The Magistrates' Court also carries out the initial hearings in more serious criminal cases, which are then sent or 'committed' to a Crown Court for trial. In the Crown Court, a jury usually decides if the defendant is guilty (there is no jury in a Magistrates' Court). The judge decides on the sentence.
37. Of interest, in the context of the criminal justice system more generally, will be the Attorney General's Human Rights Guidance for the Public Prosecution Service and Northern Ireland Courts and Tribunals

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12 This can include what is known as a Newton hearing, where a defendant pleads guilty to an offence but there are factual issues that need to be resolved between the prosecution and defence. You may be called to give evidence. Should this be necessary you will be advised about this.

13 See 'Special Measures' In Section 4 for further information. A special measures leaflet can also be found at [www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Special%20Measures%20Leaflet.pdf](http://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Special%20Measures%20Leaflet.pdf)

Service on Support for Victims and Witnesses.<sup>14</sup> The guidance for the Public Prosecution Service deals with the issues of special measures, delay, disclosure and privacy. The guidance for the Northern Ireland Courts and Tribunals Service additionally deals with training of staff, the separation of witnesses from the accused, waiting time at court, the provision of information and communication, co-operation with witness support organisations, data collection, disability and young people. The guidance is intended to assist those professionals by offering them a framework within which their professional standards can operate and be compliant with international human rights standards.

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14 [www.attorneygeneralni.gov.uk/sites/ag/files/human-rights-guidance-public-prosecution-service.pdf](http://www.attorneygeneralni.gov.uk/sites/ag/files/human-rights-guidance-public-prosecution-service.pdf) and [www.attorneygeneralni.gov.uk/sites/ag/files/human-rights-guidance-for-the-nicts.pdf](http://www.attorneygeneralni.gov.uk/sites/ag/files/human-rights-guidance-for-the-nicts.pdf)

## Section 3: Overview of the key elements of the Witness Charter

38. As a witness you will receive services under the Witness Charter from a range of service providers and may also liaise with a defence legal representative if you are a defence witness. Full details of the entitlements and standards under the Charter, how they will work and the conditions associated with them are set out in the body of the Charter. Listed below is a summary of the main aspects for prosecution and defence witnesses.
39. Where you are to give evidence as a defence or prosecution witness you will:
- be **recognised and treated** in a courteous, respectful, sensitive, professional and non-discriminatory way by service providers, and in your dealings with the defence legal representative, under the terms of the Charter.
  - have service providers, or a defence legal representative, take appropriate measures to help you understand what they are telling you and make sure they **understand** what you are telling them – for example the use of a Registered Intermediary, interpretation or linguistic assistance from someone you know.
  - have **access to free translation or interpretation**, if asked for and you do not speak or understand English, when:
    - reporting to the police that you have witnessed a crime; or
    - giving evidence to the police or at court.
  - **receive information** on:
    - the date, time and location for giving evidence; and
    - claiming expenses, if asked to give evidence by the prosecution.
  - be able to **bring** someone of your choice to give you **support** when you meet service providers or a defence legal representative, unless this would not be in your best interest or would adversely affect the criminal proceedings or conduct of the case.
  - be **interviewed** by the police as few times as possible, if you provide a statement to them, and to have someone of your choice with you (unless this would not be in your best interests, would hinder the investigation or would adversely affect the criminal proceedings or conduct of the case).
  - be told if you have to give **evidence at court** and receive information about the timing and location of this.
  - be able to ask a witness support service provider (for prosecution witnesses) or the Northern Ireland Courts and Tribunal Service if you can visit the court so you're familiar with the building and the court room before giving evidence.
  - have consideration given to what assistance there may be to help you give evidence, in the form of 'special measures', wherever possible and where service providers or the defence legal representative are aware of your needs. Final decisions on this will be a matter for the judge.
  - be told by the Public Prosecution Service, or defence legal representative, if special measures have been granted to help you give evidence at court.
  - be able to raise your concerns with a service provider, or a defence legal representative, if you have concerns about how you have been dealt with.

40. Where you are to give evidence as a prosecution witness you are also entitled to:
- **receive information** on help and support available to you (including information on specialist support organisations);
  - have **access to free translation** when receiving information about the date, time and location for giving evidence;
  - discuss any needs you have with your **case officer** in the **Victim and Witness Care Unit** and be referred to a relevant support service provider, if appropriate, who can advise you of services (including specialist services);
  - be protected from contact with the defendant, their family and supporters at court, wherever possible;
  - ask to enter the building through a different entrance from the alleged offender and to sit in a separate waiting area, wherever possible; and
  - deal with people who are **trained appropriately** in their contact with witnesses.

### Quick guide to key entitlements and/or standards by witness type

41. The table below provides a quick guide to some of the key entitlements and standards to be provided to witnesses as well as services that are currently available.

Entitlement/Standard/Service	Defence Witness	Prosecution Witness	Expert Witness
Recognised and treated in a courteous, professional and non-discriminatory way	✓	✓	✓
Measures to help you be understood and understand	✓	✓	
Bring a supporter with you, unless it would not be in your best interest or would adversely affect the case	✓	✓	
Access to interpretation or translation to give evidence to the police or at court	✓	✓	
Contact point for service provider or defence legal representative, as appropriate	✓	✓	
Contact with professional trained staff in the services they provide	✓	✓	✓
Information on the date, time and location for giving evidence	✓	✓	✓
Be told if you have to give evidence at court	✓	✓	✓
Have access/referral to a support service provider		✓	
Single point of contact in the Victim and Witness Care Unit		✓	
Needs assessment undertaken by the Victim and Witness Care Unit		✓	

Entitlement/Standard/Service	Defence Witness	Prosecution Witness	Expert Witness
May be considered to be a vulnerable or intimidated witness	✓	✓	
Needs considered in terms of special measures	✓	✓	
Access to special measures, where agreed by the judge	✓	✓	
Separate waiting area from, and be protected from contact with, the alleged offender at court (wherever possible)		✓	
Access to visit the court ahead of trial	✓	✓	✓
Payment of expenses		✓	✓
Make a complaint	✓	✓	✓



## Section 4: Special Measures and support for vulnerable and intimidated witnesses

42. If you are a prosecution witness you are entitled to a timely individual assessment by the police and by the Victim and Witness Care Unit (if the case progresses to prosecution) to identify your needs, necessary support or special measures related to giving evidence. One of the purposes of this would be to determine whether, and to what extent, you would benefit from additional support or 'special measures' when giving evidence to the police or at court. The extent of the assessment, including its nature, length and content may be adapted according to the severity of the crime, its apparent harm or impact on you and your individual needs. Further information on this can be found in **Section 7**.
43. If you are a defence witness the defence legal representative can apply for special measures, to help you give evidence, if you are a vulnerable or intimidated witness. They should discuss with you whether you would benefit from any special measures, to assist you when giving evidence. You should advise the defence legal representative if you think that the following factors may affect your ability to give evidence, due to you being vulnerable or intimidated:
- your personal characteristics (for instance, whether you have a disability);
  - the type or nature of the crime; and
  - the circumstances of the crime.
44. The defence legal representative will take these into account, where known, in deciding whether to make an application for special measures.
45. Further information on special measures can also be found in the Attorney General's Human Rights Guidance for the Public Prosecution Service and Northern Ireland Courts and Tribunals Service on Support for Victims and Witnesses. It should be noted that special measures can be applied for in cases in both the Crown Court as well as Magistrate's Court.

### Who is eligible for special measures?

46. Not everyone is affected by witnessing a crime in the same way and for some the impact is greater than others. If you are a prosecution witness you are **entitled** to be offered additional support. **No one has an outright entitlement to special measures, per se, rather the judge will decide whether they are granted.** However, if you are a vulnerable or intimidated prosecution witness you are **entitled** to be advised about the special measures that may be available to help you give evidence, taking account of whether and to what extent this would help you during your engagement with the criminal justice process. References to special measures, throughout this Charter, should be considered in that context.
47. If you are a vulnerable or intimidated prosecution witness, you are **entitled** to have the Public Prosecution Service consider making an application for special measures and **entitled** to ask that a special measures application is considered in your case, to help you give your best evidence. This can be done through the police, the Victim and Witness Care Unit or directly to the Public Prosecution Service.

48. If you are a defence witness the defence legal representative will seek to provide you with information about attending court and special measures, as appropriate. The defence legal representative will consider making an application for special measures, if you are deemed to be vulnerable or intimidated, based on the information available to them or provided by you. You can ask the defence legal representative to consider making an application for special measures, to help you give your best evidence at court.
49. It should be noted that the Public Prosecution Service, or a defence legal representative, may oppose an application for special measures.
50. The court may also make a special measures direction, for prosecution or defence witnesses, in the absence of any application, where it considers that a particular measure or measures would be likely to improve the quality of evidence given by the witness.

## Vulnerable and intimidated witnesses

51. You are considered to be a **vulnerable witness**,<sup>15</sup> when giving evidence for the prosecution or defence, if:
  - you are under the age of 18 at the time of giving evidence, were under 18 when any video recorded interview took place, or
  - the quality of your evidence is likely to be affected because you have;
    - mental health issues;
    - learning or communication difficulties;
    - a neurological disorder; or
    - a physical disability.
52. In some cases service providers or a defence legal representative may not know your age or this may not be certain. If your age is uncertain and there is reason to believe that you are a child or young person under the age of 18, service providers and defence legal representatives will presume that you are a child for the purpose of this Charter.
53. You are considered to be an **intimidated witness**, when giving evidence for the prosecution or defence, if the quality of your evidence is likely to be affected because of your fear or distress about testifying.<sup>16</sup>
54. In determining whether you are intimidated the court will take into account the nature of the offence, your age, any behaviour towards you by the accused, their family and supporter and other relevant factors (including, where relevant, your social and cultural background, your domestic and employment circumstances or your religious beliefs).
55. If you are a prosecution witness, and are considered to be vulnerable or intimidated (which includes children and young people) or are identified as having particular needs, you are **entitled** to the following from the police or the Victim and Witness Care Unit. To:
  - a needs assessment (including consideration for special measures);

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15 This is based on the criteria in Article 4 of the Criminal Evidence (Northern Ireland) Order 1999 for the court to determine witness eligibility for special measures. The legal detail of the criteria can be found in these provisions.

16 This is the test in Article 5 of the Criminal Evidence (Northern Ireland) Order 1999 by which the court determines witness eligibility for special measures. The legal detail of the criteria can be found in these provisions.

- have the police offer to audio-video record your statement in criminal investigations, to make it easier for you to tell them what happened. This may also mean that you do not have to repeat this in court, where the recording is used as evidence in criminal proceedings. Final decisions on whether or not the video recording may be used as evidence will be a matter for the judge. You may ask to give live evidence at court if you would prefer not to make a video statement. In some cases a written statement may be more appropriate. A written statement may be taken at your home, or another suitable location, should you ask for this and the police agree it is feasible;
  - have information on special measures explained to you, where these may be applied for;
  - have your views on whether or not you want to benefit from any support considered;
  - be informed if a special measures application has been granted or refused; and
  - have information about your needs passed on to the Public Prosecution Service so that they can continue to support you.
56. If you are a defence witness the defence legal representative will consider applying for special measures, where either they are aware that you are vulnerable or intimidated or you advise them of this. If you give a statement to the police as a defence witness the entitlements above relating to the police would also apply to you.
57. If the judge has granted an application for one or more special measures to help you give evidence, Northern Ireland Courts and Tribunals Service staff will ensure the measure(s) is (are) available and provide any assistance as required on the day in court in relation to these.
58. In general, any case involving a vulnerable or intimidated witness will not be listed for hearing unless the court is satisfied that it is likely to go-ahead. However, listing of cases is a judicial function and there may be other factors that the judge will take into consideration. Also the court will try to prioritise such cases based on information provided by the parties about the witness involved.

## Applying for special measures

59. The public prosecution service, or defence legal representative, is responsible for making a timely application for special measures to the court ahead of a court case. In some cases this may not be possible, for example where there is a change in your circumstances as a witness (in relation to vulnerability or intimidation) at a very late stage or you are unwilling to meet the defence legal representative ahead of court or advise the Victim and Witness Care Unit of your needs (for defence and prosecution witnesses respectively). The judge will decide whether special measures should be made available and you should be informed of the outcome of any application.

## Types of special measures

60. Special measures are measures put in place to help you give your best evidence if you are vulnerable or intimidated (whether a prosecution or defence witness). These are only available if the judge agrees one or more of the following special measures is appropriate:
- screens/curtains in the courtroom so you do not have to see the defendant and, in some cases, the public gallery when you are giving evidence;
  - a live video link allowing you to give evidence away from the courtroom. However, it is likely that you will still be in the court building and you will be seen by video link in the court room. At some courts it is possible to give your evidence over a live link from a non-court location. This may help

you feel more relaxed and able to give better evidence. This needs to be arranged in advance and either the PPS or your defence legal representative will be able to advise if it is available in your case. You may have a supporter with you when you give your evidence from the live link room;

- giving evidence in private – the public gallery can be cleared in cases involving a sexual offence, trafficking or slavery or where the court is satisfied that someone other than the accused may seek to intimidate you;
- removal of wigs and gowns by judges, and by the defence and prosecution team;
- video recorded statements – these allow you to use a pre-recorded video statement as your main evidence;
- assistance from a Registered Intermediary.<sup>17</sup> Registered Intermediaries are communication specialists who can help you give evidence if you have significant communication difficulties. They are recruited by the Department of Justice to help vulnerable witnesses give their best evidence to the court. They can also assist when you are being interviewed by the police, to help you communicate your evidence to them; and
- using communication aids, such as alphabet boards (if you are a vulnerable witness).

It is noted that there are obligations to ensure that people with disabilities are able to access justice on an equal basis with others, under the UN Convention on the Rights of Person with Disabilities. In this Charter this is given effect through a range of provisions, including the special measures that can be applied for to assist vulnerable and intimidated witnesses to give evidence to the police and at court, as well as other assistance to help people to understand and be understood. This is in addition to the general provisions that service providers would have available and which are not necessarily specific to the giving of evidence at court.

## Children and young people

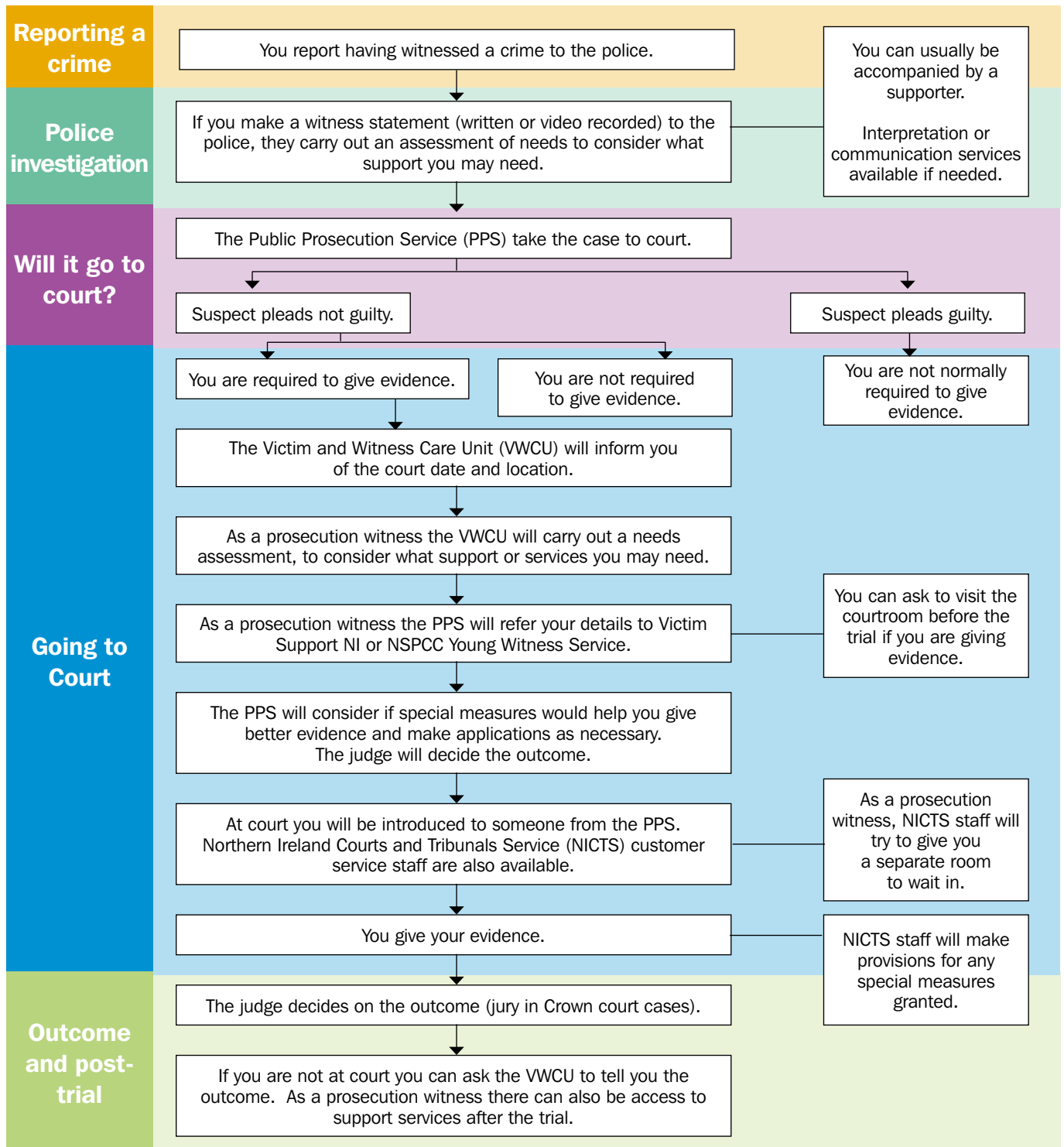
61. If you are a prosecution witness, under the age of 18, in addition to relevant provisions set out in this Charter, you are also entitled to:
  - have the Victim and Witness Care Unit take appropriate steps to help you get the support you need as a result of the needs assessment process;
  - automatically be considered as eligible for special measures by the police conducting the investigation and the Victim and Witness Care Unit as part of their needs assessment; and
  - speak to someone specially trained to listen to you and help you get over the crime, at any time during the investigation (and trial). This may be called therapy or counselling and is often provided by a specialist organisation. If you wish to avail of this you should speak to the police, the Victim and Witness Care Unit (who will refer you to a witness support service provider) or directly to a witness support service provider.
62. If you are a young defence witness the defence legal representative will make arrangements for you. Similar to prosecution witnesses a young defence witness, under the age of 18, will automatically be considered as eligible for special measures. The defence legal representative will give you a copy of your statement before you give your evidence. This will typically be on the day of court.

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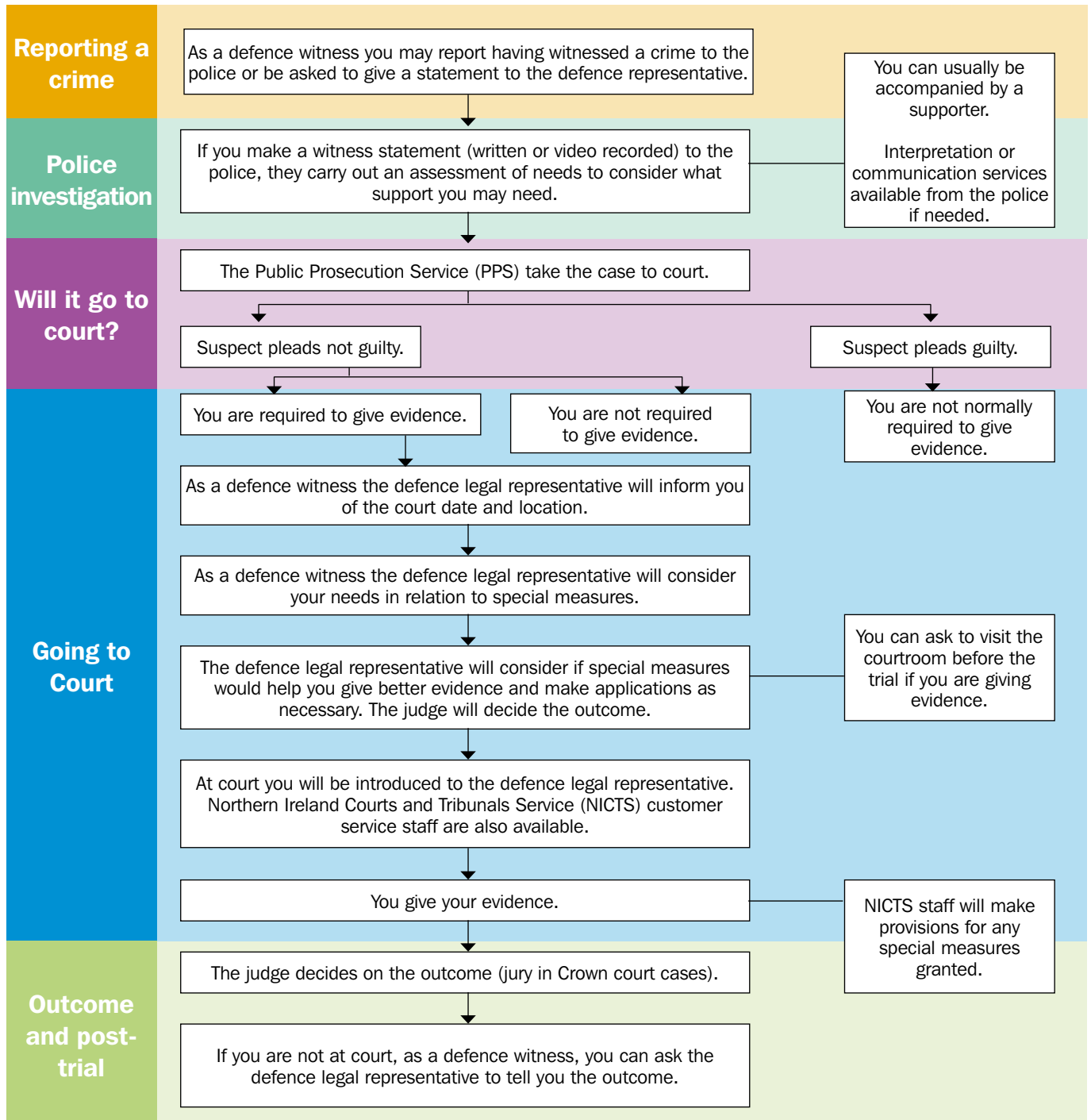
<sup>17</sup> The Registered Intermediary Schemes currently apply to cases dealt with at Crown Court.

## Section 5: Criminal Justice System – A Witness Journey

### Prosecution Witness Journey



## Defence Witness Journey



## Summary overview of the criminal justice process

### 1. Reporting a crime

The process begins when someone who is aware of what happened reports a crime to the police. Each witness journey will be different and your needs may differ during the process.



### 2. Support services

If you are a prosecution witness you can access support services, including specialist support. Contact Victim Support NI (028 9024 3133) who can advise you. More information can be found at [www.victimsupportni.co.uk](http://www.victimsupportni.co.uk).



### 3. Police investigation

The police will investigate the crime and check what support you need to tell them what happened. You may be asked to give a witness statement to the police or a defence legal representative. Making a statement is voluntary although you may still be asked to give evidence if you do not make one. If there is no suspect or there is not enough evidence, the investigation may be closed. In some instances the police may deal with the case in a way which means that it does not have to go to court.



### 4. Will it go to court?

If the police send a file to the Public Prosecution Service, a prosecutor will decide whether there is enough evidence for the case to go to court and if this is in the public interest. If you are a prosecution witness and are required to give evidence at court the Victim and Witness Care Unit will advise you about this. If you are a defence witness a defence legal representative will tell you about this.



### 5. Preparing for court

If you have to give evidence at court you may want to visit the court, so that you have a better idea of what to expect. If you are a defence witness you, or the defence legal representative, can contact the Northern Ireland Courts and Tribunals Service, should you wish to visit the court beforehand. If you are a prosecution witness you can contact Victim Support NI's Witness Service (for adults aged 18 or over) or the NSPCC's Young Witness Service (if you are under 18).



### 6. The trial and giving evidence

If the defendant pleads guilty before the start of the trial you will not usually have to give evidence. If the trial goes ahead, and you are a prosecution witness, the Victim and Witness Care Unit will keep you informed about what's happening and what you need to do and check what support you might need. If you are a defence witness the defence legal representative will update you. If you have additional needs as a prosecution or defence witness, some extra help (known as 'special measures') may be provided if you want this and the judge agrees.



### 7. Outcome

If you are a prosecution witness and not in court for the outcome you can ask the Victim and Witness Care Unit to let you know about this and any sentence imposed. If you are a defence witness you can ask the defence legal representative about this.



## Section 6: General standards

63. Some of the services and standards set out in the Charter will be specific to a particular service provider or may depend on how far the case has gone or whether or not you will give evidence at court. Others will apply to all service providers, as set out below. The standards also set out how defence witnesses should be dealt with.

### Standard 6.1: Ensuring fair treatment

You are **entitled** to be recognised and treated in a respectful, courteous, sensitive, professional and non-discriminatory manner by the service providers covered by the Charter and defence legal representatives in your contacts with them as a witness to a crime, within the context of criminal proceedings. This will apply irrespective of your background, religious belief, political opinion, racial group, age, marital status, sexual orientation, gender, any disability or whether you have dependants. The entitlements in this Charter will apply to you in a non-discriminatory manner, including with respect to your residence status, that is whether you normally live in Northern Ireland, the rest of the UK or another EU Member State.

Defence legal representatives, both solicitors and barristers, operate in accordance with professional Codes of Conduct and the Solicitors Practice Regulations. The Bar Code of Conduct includes conduct in court and the treatment of witnesses.<sup>18</sup>

### Standard 6.2: Understanding and being understood

If you are a prosecution witness you are **entitled** to have service providers take appropriate measures to assist you to understand what they are telling you and make sure they understand what you are telling them (for example, the use of a Registered Intermediary where you are giving evidence to the police or at court).<sup>19</sup> This will apply from your first contact with a service provider and during any further necessary interaction with service providers in the context of criminal proceedings and your subsequent engagement in the criminal justice process. It will include where information is provided to you by the service provider. Service providers will take steps to ensure that when they tell you something that this is in simple and accessible (understandable) language, whether they are speaking or writing to you. In communicating with you, they will take into account any personal characteristics including any disability (where known) that may affect your ability to understand or to be understood. Where a service provider undertakes a needs assessment this will include consideration of your communication needs.

If you are a defence witness the defence legal representative will take steps to ensure that those involved in the case understand what you are telling them and that you understand what they are telling you, as far as possible. This may include through interpretation, the use of a Registered Intermediary where you are giving evidence to the police or at court, or having linguistic assistance from someone that you know (if this is appropriate and would not adversely affect criminal proceedings, the conduct of the case or be against your best interests).

<sup>18</sup> The Bar of Northern Ireland Code of Conduct is available online at [www.barofni.com/page/code-of-conduct](http://www.barofni.com/page/code-of-conduct).

<sup>19</sup> The final decision on the use of a Registered Intermediary, as with any special measure, is a matter for the judge. The function of the Registered Intermediary is to facilitate communication when a person with significant communication difficulties is giving evidence.



**Standard 6.3: Interpretation and translation**

If you are a prosecution witness, or a defence witness giving a statement to the police, the police or Victim and Witness Care Unit (for prosecution witnesses) will assess whether language difficulties mean that you do not understand or speak English and they cannot effectively communicate with you, including whether you need interpretation to take part in any interviews or questioning during criminal proceedings.

If you are a prosecution witness a relevant service provider must ensure that, where you do not understand or speak English, interpretation or translation (as set out in the Charter) in a language you understand is provided on request, free of charge. The service provider may provide an oral translation or oral summary instead of a written translation, as long as this does not prejudice the fairness of the criminal proceedings.

The Public Prosecution Service or defence legal representative, as appropriate, will provide you with interpretation services, on request, when you are giving evidence or being questioned during criminal proceedings at court, where you do not speak or understand English.

If you are a defence witness the defence legal representative will take steps to ensure that those involved in the case understand what you are telling them and that you understand what they are telling you, as far as possible. This may include through interpretation, the use of a Registered Intermediary where you are giving evidence to the police or at court, or having linguistic assistance from someone that you know (if this is appropriate and would not adversely affect criminal proceedings, the conduct of the case or be against your best interests).

**Standard 6.4: Someone to support you**

You can have someone of your choice come with you when you first meet service providers or a defence legal representative, particularly if the impact of the crime means you need help with understanding what they are telling you or that they would need help to understand you. This could include, for example, a family member or support worker from a voluntary organisation. This will not apply where the service provider or defence legal representative considers that it would be contrary to your interests or where the criminal proceedings or conduct of the case would be prejudiced as a result of this.

**Standard 6.5: Contact point for service providers**

Service providers and defence legal representatives will inform you of a contact point for communication about your case. For prosecution witnesses you will be informed of this at key stages of the process, given that you will deal with a number of bodies as you move through the criminal justice process. For some service providers, such as the Victim and Witness Care Unit, you will be given a named single point of contact – this applies from when the Public Prosecution Service receives the investigation file through to the outcome of the case. For defence witnesses your main point of contact will be the defence legal representative dealing with the case. You may also have contact with the police, if you give a statement to them. They will advise you of their contact details.

## Standard 6.6: Provision of information where you are to give evidence

If you are required to give evidence, as a prosecution witness, you are **entitled** to receive information from service providers about the date, time and location for this. Where you are to receive information from a service provider about the progress of the case you can ask for the information to be provided in a format that best suits your needs (for example, by phone, by email or in writing).

If you are a defence witness the defence legal representative will provide you with information about where and when you are required to give evidence. They will normally provide this by email, so that there is a record of this, although this can also be done by phone or in writing where you do not have an email address.

## Standard 6.7: Professional and trained staff

If you are a prosecution witness service providers must ensure that officials likely to come into contact with witnesses receive both general and specialist training to a level appropriate to their duties and the nature and level of contact with witnesses of crime (including those who carry out needs assessments). This training should increase their awareness of the needs of witnesses and enable them to deal with you and provide services in a courteous, respectful, sensitive, professional and non-discriminatory manner.

Defence legal representatives are professionals trained in the services they provide to all parties involved in court proceedings.

Where a problem or issue arises regarding the conduct of individuals involved in a case you have the ability to raise a complaint.

## Standard 6.8: Residents of other EU Member States

If you were not resident in Northern Ireland at the time that the crime took place, you are still entitled to receive services under the Charter if the crime took place in Northern Ireland or criminal proceedings are taking place in Northern Ireland. Service providers will take appropriate measures to minimise the difficulties that you face where you normally live (are resident), in another EU Member State and are a visitor to Northern Ireland. This will include with regard to the way in which the proceedings are organised, as far as possible. In relation to this you are **entitled** to:

- have the police take a statement from you as soon as possible (that is without unjustified delay) after you have reported witnessing a crime;
- as far as possible, have access to video conferencing and telephone conference calls, if you are resident abroad,<sup>20</sup> for the purpose of giving evidence to the police or at court; and
- help with understanding proceedings, and being understood, including access to interpretation and translation as set out elsewhere in the Charter.

Some of these measures may also apply if you live in the rest of the UK.

<sup>20</sup> As laid down in the Convention on Mutual Assistance in Criminal Matters between the EU Member States of 29 May 2000.

## Section 7: Reporting a crime and the police investigation

### Reporting witnessing a crime or incident

64. You may be worried about reporting that you have witnessed a crime. However, you are encouraged to report it to the police. You can do this in a number of ways:

- **Emergency:** In an emergency dial 999 or 18000 for text-phone users. An emergency is where serious injury has been caused or a crime is in progress and suspects are at the scene.
- **Emergency SMS text service:** The police operate an emergency SMS text message registration scheme to help those with certain disabilities contact them in an emergency. This service also enables the police to pass on requests for assistance to the fire and ambulance services. The service is only available to pre-registered users who have completed an application form (further details and an application form are available on the police website [www.psni.police.uk](http://www.psni.police.uk)).
- **Non-Emergency:** Where the incident is not urgent telephone 101. You can also report witnessing a crime online at [www.psni.police.uk/CrimeReportFormPage/](http://www.psni.police.uk/CrimeReportFormPage/). This is in addition to the other ways set out in this section.
- **Hate crime:** Where the incident is not urgent telephone 101, then dial 2. You can also report witnessing hate crime online, using a hate crime reporting form, at [www.psni.police.uk/CrimeReportFormPage/](http://www.psni.police.uk/CrimeReportFormPage/). This is in addition to the other ways set out in this section.
- **Call at your local police station:** Where the incident is not urgent you may also report having witnessed a crime at your local police station, during opening hours.

If you are a defence witness you can speak to the police, or the bodies listed below. You may also provide a statement to a defence legal representative at a later stage.

If you have witnessed a crime taking place you may also report it in the following ways:

- **Crimestoppers:** If you do not want to give your name you can report witnessing a crime anonymously by calling the freephone Crimestoppers charity helpline on 0800 555 111. This service is not part of the police.
- **Harbour or Airport incident:** Where the incident has occurred within the grounds of Belfast International Airport or Belfast Harbour you should contact Belfast International Airport Constabulary on 028 9448 4400 (extension 4412)/Mobile 077 1081 9183 or Belfast Harbour Police on 028 9055 3000. Where a major or serious incident such as murder, an act of terrorism or armed robbery has occurred these can also be reported to the Police Service of Northern Ireland. Incidents at Belfast City Airport will be dealt with by the Police Service of Northern Ireland, through the contact numbers above.
- **Police Ombudsman:** If you believe that a crime has been committed by a police officer you should report it to the Police Ombudsman who will investigate and may make recommendations to the Director of Public Prosecutions for criminal prosecution.

## Standard 7.1: Reporting witnessing a crime or incident

If you report having witnessed a crime or other incident to the police, you are **entitled** to have the police take appropriate measures to help them understand what you are telling them and help you understand what they are telling you. If you do not understand or speak English you are **entitled** to report the crime to the police in a language that you do understand, have help to report it or be given help to report it (by receiving the necessary linguistic assistance). This could include translation or interpretation, free of charge, if needed.

## Making a statement

65. When the police investigate a crime there are a number of things that they will need to do. You can help by telling them what happened either in writing or by speaking to them.
66. The police will decide whether to ask you to provide a statement and become a prosecution witness. Making a statement is voluntary although you may still be asked to give evidence if you do not make one. In addition, if you have information that would be likely to lead to someone being convicted of committing an offence, failing to provide that information to the police may itself be an offence.
67. If you are identified as a potential defence witness you may be asked to make a statement to the defendant's legal representative. In certain circumstances the police may also ask you to make a statement.

## Standard 7.2: Making a statement to the police

When you make a statement to the police (including making a written statement), whether you are a witness for the defence or the prosecution, you are **entitled** to the following from the police. To:

- have the purpose of the statement explained to you, including that you may have to give evidence in court if the case goes to trial;
- have a timely and individual needs assessment carried out to help identify your specific needs, what particular help or support you may need, whether your best evidence would be achieved through video-recording your statement and to determine whether and to what extent you would benefit from additional support/'special measures' in the course of criminal proceedings, that is when you are giving evidence to the police or at court;
- have your views, on whether or not you want to benefit from any support/special measures considered;
- have an assessment made of whether you need help or interpretation during any interviews or questioning by the police;
- get help or interpretation during any interviews or questioning by the police about the crime, on request, where you do not understand or speak English;
- have interviews or any questioning take place as soon as possible (that is without unjustified delay) after the crime;
- have the number of interviews or any questioning of you kept to a minimum and to have these carried out only where they are strictly necessary for the purpose of the police investigation or criminal proceedings;
- ask for a break at any time, if you find the interview or making a statement upsetting;

- have any written statement taken at your home, or another suitable location, where you ask for this and the police agree it is feasible. In some cases this may not be possible, including if the statement needs to be video recorded; and
- be accompanied by a person of your choice (including a legal representative) unless there is good reason (a reasoned decision has been made) that this should not take place – for example, where it would not be in your best interests or the police investigation or criminal proceedings would be prejudiced as a result of this.

The police have policy, training and specialist departments in place to ensure that consideration is given to you as an individual and your unique circumstances, including your protection. Where you have concerns about your safety or protection, and believe yourself to be at risk of harm as a result of having witnessed a crime, you should advise the police of this. Where you report your concerns to the police you are **entitled** to have them make an assessment and, where necessary and reasonable, bearing in mind the level, probability and immediacy of the risk, take steps to safeguard and protect you.

68. If you are a vulnerable or intimidated prosecution or defence witness (which includes children and young people) giving a statement to the police you are **entitled** to:
- have someone with you when you give your statement to the police;
  - ask the police for someone to help you understand the questions you are asked;
  - automatically be considered as eligible for special measures by the police conducting the investigation and the Victim and Witness Care Unit (if you are a prosecution witness) as part of their needs assessment;
  - have your statement audio-video recorded by the police, to make it easier for you to tell them what happened, where this is appropriate. This may also mean that you do not have to repeat this in court, where the recording is used as evidence in the criminal proceedings. When recording your evidence the police will have regard to Article 9 of the Criminal Evidence (Northern Ireland) Order 1999 which states that the ‘primary rule’ for child witnesses (subject to prescribed limitations) is that the court must provide (by way of direction) for any relevant recording to be admitted as video recorded evidence in chief and must provide for any evidence given by the witness in the proceedings which is not given by those means to be given by means of a live link. Final decisions on whether or not a video recording may be used as evidence in criminal proceedings, or whether a live link may be used, will be a matter for the judge.

### **Standard 7.3: Making a statement to a defence legal representative**

If you make a statement to a defence legal representative:

- the purpose of the statement will be explained to you, including that you may have to give evidence in court if the case goes to trial;
- they will take appropriate steps to understand what you are telling them;
- they will seek to arrange an interpreter, where you do not speak or understand English, if this is necessary for you to give a statement to them;
- they will determine whether and to what extent you would benefit from ‘special measures’ in the course of criminal proceedings, if you are to give evidence at court;

- your views, on whether or not you want to benefit from any special measures (if the court deems you eligible for them), will be considered;
- any discussion with them, or making of a statement, will take place as soon as possible;
- you can be accompanied by a person of your choice unless there is a good reason (a reasoned decision has been made) that this should not take place – for example, where it would not be in your best interests or where it would adversely impact on the criminal proceedings or the conduct of the case as a result of this.

69. More generally, whether you are a prosecution or defence witnesses, you can:
- read over your written statement to check that it is accurate, or have someone read your statement back to you if you have difficulty reading;
  - have any inaccuracies in your statement, that you point out, corrected and any further relevant information added; and
  - have it explained to you by the police or defence legal representative that, if you are making an evidential statement, this may result in you needing to give evidence in court if the case goes to trial.
70. Whether you give a statement to the police or to a defence legal representative you will be asked to sign and date your statement. For a statement to the police you will also have to confirm that you agree with what has been recorded in it.

## Consideration of needs

71. If you are a prosecution witness you are entitled to a timely individual assessment by the police and by the Victim and Witness Care Unit (if the case progresses to prosecution and you are to give evidence). The assessment will, in particular, take into account:
- your personal characteristics (for instance, whether you have a disability);
  - the type or nature of the crime;
  - the circumstances of the crime; and
  - your views (including whether or not you want additional support) and will involve you.
72. The more information you are able to provide during the assessment the more tailored any support will be to your individual needs. The assessment could include identifying:
- your needs relating to interpretation, translation, being understood, help to give evidence in the form of special measures<sup>21</sup> and other additional support;
  - if you have been intimidated or are at risk of intimidation; or
  - if you have any other needs that may require additional support, when giving evidence to the police or at court.
73. If your needs, or the elements that form the basis of the individual assessment, change significantly during the criminal proceedings you are entitled to be given the opportunity to be re-assessed. You can also have your assessment updated, if the service provider is aware of the change of circumstances that impacts on your needs or you make them aware of this. This could be due to your health, intimidation or some other reason. Once a service provider has identified your needs, they

21 [www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Special%20Measures%20Leaflet.pdf](http://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Special%20Measures%20Leaflet.pdf)

should try to ensure that relevant information is passed on as necessary to other service providers with responsibilities under the Charter and to victim support services, where appropriate and possible.

## Procedures for those identified with particular needs

74. If you are vulnerable, intimidated or identified as having other particular needs and provide a statement to the police they will carry out interviews with you having considered 'Achieving Best Evidence in Criminal Proceedings' guidance. They will also take account of your needs and views as far as possible. This will apply whether you are a defence or prosecution witness.

### Standard 7.4: Police interview procedures for those identified with particular needs

If an individual assessment identifies you as being vulnerable, intimidated or having other particular needs, and the police consider that you would benefit from the following measures, due to your particular vulnerability, you are **entitled** to the following from the police, where you are giving evidence to them. To have:

- interviews or questioning of you take place, without unjustified delay, after the facts have been reported to the police;
- interviews with you carried out in premises designed or adapted for that purpose;
- interviews with you carried out by or through professionals trained for that purpose; and
- all interviews with you carried out by the same person, unless this would be contrary to the good administration of justice.

This will apply whether you are a defence or a prosecution witness.

75. When giving a statement to the police witnesses under 18 years old and all other vulnerable and intimidated witnesses can ask for their statement to be video recorded. In such cases, the person taking the statement will ensure that the recording is of sufficiently good quality to be used in court as evidence if necessary. You may still be required to attend court to be questioned about your evidence. In such cases, special measures could be put in place to assist you (further information on 'Special Measures' is available in **Section 4**).
76. These entitlements will not apply where operational or practical constraints make this impossible, or where there is an urgent need to interview you and a failure to do so could harm you or another person or could prejudice the investigation or criminal proceedings.

## After a statement is given

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



## Section 8: Preparing for court

### Decision to prosecute

78. Where an investigation file has been sent to the Public Prosecution Service a decision will be made on whether or not someone will be prosecuted for the offence, based on the test for prosecution. The Public Prosecution Service can decide to prosecute or not prosecute, or offer to divert the offender, for example by offering the offender an adult caution.
79. If a decision is made to prosecute and you are a prosecution witness, you will usually only have to give evidence if this is necessary to prove the case. In some instances you may still have to give evidence, even if the defendant has pleaded guilty.<sup>22</sup> The Victim and Witness Care Unit will contact you to let you know the date, time and location for giving evidence.
80. If you are a defence witness the defence legal representative will advise you about whether or not you need to give evidence as well as the date, time and location for this.
81. The Victim and Witness Care Unit is a single, informed point of contact for prosecution victims and witnesses during the prosecution process. The service is available from the point at which the Public Prosecution Service receive the investigation file through to the conclusion of any proceedings (including an appeal). The Unit is run by the Public Prosecution Service in partnership with the Police Service of Northern Ireland. As a prosecution witness you are **entitled** to have the Victim and Witness Care Unit:
- provide you with information about the Victim and Witness Care Unit and the services that it provides – including a single point of contact, means of communication, services and information provided to witnesses of crime and available support services;<sup>23</sup>
  - communicate with you using your preferred means of contact – letter, email, telephone, etc. – at a preferred time of day, wherever possible;
  - seek your views on what contact you wish to have with them (including no contact, except where information must be provided to enable you to take part in the criminal proceedings);
  - inform you of your case officer's name and telephone number (your single point of contact in the Unit);
  - conduct an individual needs assessment when it is identified that you need to attend court. Further needs assessments may be carried out as circumstances require;
  - refer you to other support services (including specialist support services), as appropriate; and
  - make sure consideration is given to individual requirements for special measures or other support, where appropriate, if you are vulnerable or intimidated or have any other needs that require additional support while giving evidence.
82. If you are a defence witness the defence legal representative will:
- communicate important information about the case by email, so that there is a record of this. If you do not have an email they will contact you by phone or by letter;

<sup>22</sup> This can include what is known as a Newton hearing, where a defendant pleads guilty to an offence but there are factual issues that need to be resolved between the prosecution and defence. You may be called to give evidence. Should this be necessary you will be advised about this.

<sup>23</sup> [www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/VWCU%20Leaflet%20\(web\).pdf](http://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/VWCU%20Leaflet%20(web).pdf)



- inform you of their contact details and ask for your contact details so they can keep in touch with you;
- consider applying for special measures, as appropriate, where the defence legal representative is aware that you are vulnerable or intimidated (or you have advised them of this) and you may benefit from special measures to give evidence.

## Preparation for attending court

83. You may be anxious before attending court and unsure about what to expect when you are there. The standard below covers the information, support and help that is available before going to court, where you are to give evidence.

### Standard 8.1: Information provision about attending court

If you are required to attend court to give evidence, as a prosecution witness, you are **entitled** to:

- have the Victim and Witness Care Unit tell you about this;
- receive information from the Victim and Witness Care Unit to help you prepare for going to court and understand the court process, in advance of giving evidence, so that you know what to expect;
- speak to your single point of contact in the Victim and Witness Care Unit if you have any queries or concerns about attending court to give evidence; and
- receive information from the Victim and Witness Care Unit about the court venue, including information on the court location and transport links; the support available at court and the facilities available, such as food and drink; separate waiting areas; arrangements for people with disabilities; and referrals to witness services at court.

If you are required to attend court to give evidence, as a defence witness:

- the defence legal representative will tell you about this;
- the defence legal representative can advise you on what to expect at court, to help you prepare for going to court and understand the court process, in advance of giving evidence;
- you can contact the defence legal representative, if you have any queries or concerns about attending court to give evidence; and
- you will find information about the court venue (including information on the court location and transport links) and the facilities available, such as food and drink, at the court at [www.courtsni.gov.uk/en-GB/Publications/CourthouseInformationLeaflets/Pages/default.aspx](http://www.courtsni.gov.uk/en-GB/Publications/CourthouseInformationLeaflets/Pages/default.aspx). The defence legal representative may also be able to advise you on this.

### Standard 8.2 Setting a court date

If you are required to attend court to give evidence the Victim and Witness Care Unit (for prosecution witnesses) or the defence legal representative (if you are a defence witness), will ask for your availability. This information will then be given to the court when a date is being set for trial. Every effort will be made to accommodate your availability. The judge will make the final decision on the trial date.

## Standard 8.3: Support to give evidence

If you are a prosecution witness, you are **entitled** to an individual needs assessment by the Victim and Witness Care Unit, to make sure that you are supported in giving your best evidence. This will consider:

- your needs relating to interpretation, translation, being understood, help to give evidence (in the form of special measures) or other additional support;
- whether you may be intimidated or at risk of intimidation; or
- whether you have any other needs that may require additional support, when giving evidence at court.

If you are a defence witness you may also benefit from special measures to give evidence at court. The defence legal representative can advise you about what special measures may be available to help you give your best evidence at court. If you have any concerns about intimidation you should contact the police.

## Help from witness support service providers

84. The Charter covers Victim Support NI and the NSPCC Young Witness Service services, where a person is called to give evidence by the prosecution. While the NSPCC entitlements only apply where a child or young person is to give evidence for the prosecution other support services may be available outside the scope of the Charter, such as Childline.<sup>24</sup>
85. Before, and at court, a witness support service provider can help prosecution witnesses and offer support. As a prosecution witness you are **entitled** to the following from them. To:
- have access to confidential, general witness support services, free of charge, in accordance with your needs, where you are to give evidence at court. Services are available and will act in the interest of witnesses before, during and for an appropriate time after criminal proceedings (this can include where a decision is taken not to proceed with a case). They can provide information, advice and support relevant to the witnesses role in criminal proceedings, including preparation for attendance at the trial;
  - have the opportunity to talk to a witness support service provider in confidence. Where you are to give evidence, witness services cannot discuss the evidence in the case before the trial;
  - be contacted before the trial and have witness services offered to you, where you are to give evidence;
  - ask to be accompanied throughout the court process, wherever possible when you are to give evidence, and if permitted by the court;
  - discuss any needs that you may have with a witness support service provider, and be referred to specialist support services, where appropriate and available; and
  - provide advice about the risk and prevention of intimidation and retaliation.

If you are a defence witness the defence legal representative can advise you on a witness' role in criminal proceedings and answer any questions that you may have about what will happen when you are at court when you are giving evidence. You should contact the police if you have concerns about intimidation or retaliation.

<sup>24</sup> Childline is a private confidential service offering support to children and young people up to the age of 19. You can contact a Childline counsellor about anything – no problem is too big or small. Call free on 0800 1111, have a one to one chat online or send an email via [www.childline.org](http://www.childline.org).

## Court familiarisation and going to court

86. If you are a prosecution witness due to give evidence you are **entitled** to ask a witness support service provider if you can visit the court before the trial so you're familiar with the building and the court room. Both defence and prosecution witnesses can ask the Northern Ireland Courts and Tribunals Service about seeing the courtroom ahead of giving evidence.

### Standard 8.4: Court familiarisation and going to court

If you are to attend court to give evidence as a prosecution witness you are **entitled** to:

- ask the Northern Ireland Courts and Tribunals Service if you can enter the building before other members of the public, or if you can enter the court building through a separate entrance from the defendant and their family and friends. In some cases this may not be possible. Where possible this may be facilitated through witness support services;
- have a witness support service provider explain to you what happens in court;
- practice using the live link TV facility before the trial, when you are to use this to give evidence, wherever possible; and
- have access to a witness support service provider and, where you are under the age of 18, receive the 'Young Witness Pack' by that service provider that will help you understand what will happen, if you have to give evidence at court.

If you are to attend court to give evidence as either a prosecution witness or defence witness you can:

- view a video online about what to expect at court;<sup>25</sup>
- give evidence using any of the special measures available, if these have been applied for and granted by the judge;
- ask the Northern Ireland Courts and Tribunals Service if it might be possible to transfer the case to another court venue, if the original venue is particularly difficult for you to attend, although there may be legal restrictions preventing this. You should discuss this with the person who has asked you to give evidence, or the Victim and Witness Care Unit (for prosecution witnesses), when the court date is being arranged; and
- view your statement to help refresh your memory. If you have made a written statement, as a prosecution witness, it will be available for you at court on the day. If you made a video recorded statement arrangements will be made for you to view this separately before the trial.

If you are a prosecution witness the defence legal representative may ask to speak to you before the case is heard. You are not obliged to agree to this, though the defence legal representative could apply to the court to summons you to attend.

87. Your employer or a family member may be reluctant to let you make yourself available to attend court, whether you are a defence or prosecution witness. If this occurs, an application can be made by the prosecution or defence legal representative to the court for the issue of a witness summons, which you can then use to show that you are required to attend. A witness summons may also be used if you, as a witness yourself, are unwilling to give evidence.

<sup>25</sup> This can be found at [www.nidirect.gov.uk/index/information-and-services/crime-justice-and-the-law/going-to-court.htm](http://www.nidirect.gov.uk/index/information-and-services/crime-justice-and-the-law/going-to-court.htm)

## Consideration of special measures

88. When your needs are assessed by a service provider, and you are identified as being eligible for special measures, a service provider will discuss with you what 'special measures' may be available if they think that you might benefit from these. If you are a prosecution witness you are entitled to have the Public Prosecution Service apply to the court for special measures (if you are considered eligible and you want to use them to give your evidence) and explain these to you.
89. If you are a defence witness the defence legal representative will consider whether special measures would help you to give evidence, where they are aware that you are vulnerable or intimidated. You should also advise them if you consider that you may benefit from special measures due to this.
90. It is the judge who will decide whether special measures should be granted. Once granted by the judge, these will be provided by the Northern Ireland Courts and Tribunal Service where you are to give evidence. The court may also make a special measures direction in the absence of any application where it considers that a measure, or measures, would be likely to improve the quality of evidence given by the witness.

### **Standard 8.5: Special measures**

If you are vulnerable or intimidated and it is considered that you would benefit from special measures when giving evidence at court (due to your vulnerability to secondary and repeat victimisation, intimidation or retaliation – that is where actions would further traumatise you as you move through the criminal justice system) you can have the Public Prosecution Service, Victim and Witness Care Unit or defence legal representative, as appropriate:

- apply to the court for special measures (if you are considered eligible and you want to use them to give your evidence) and explain these to you;
- inform you whether or not special measures have been granted; and
- ask the court to give the case priority.

## Section 9: The trial and giving evidence at court

### Attending court to give evidence

91. Giving evidence as a witness in a criminal trial involves an important civic responsibility that requires a duty of care on the part of the criminal justice system. While there is a duty on witnesses to tell the truth this does not detract from the fundamental principle that a defendant has a right to be presumed innocent until proven guilty and has the right to a fair trial. Everyone giving evidence at court therefore has a duty to give evidence as required by the court, so that prosecutions of the guilty are as effective as possible while the innocent are not unfairly convicted. The state also has a positive obligation to protect witnesses from harm and ensure that the steps taken at each stage of the criminal justice process do not duly add to any distress.
92. When you arrive at court, to give evidence as a witness, you should find polite and helpful Northern Ireland Courts and Tribunals Service staff and clear signs to help you find your way around. You should also be able to see a list of cases to be heard on that day. You should note that cases are not always called in the order they appear on the list. You can expect to be able to use clean and comfortable waiting and refreshment areas, or be informed by court staff what arrangements are available to get refreshments. If you are a prosecution witness you should find a clearly signposted witness service waiting area.
93. It is important that you do not speak to other witnesses about your, or their, evidence at any stage.

### Support available at court

#### Standard 9.1: Support available at court

If you are a prosecution witness giving evidence at court you are **entitled** to:

- meet with a witness support service provider upon arrival at court, if asked for and arranged before you arrive at court;
- be provided with a place to wait by a witness support service provider, for you and your family and friends, which is away from the defendant and their family and supporters. In some courts a lack of space may mean that this is not possible;
- if circumstances permit, meet the Public Prosecution Service prosecutor or representative (this can involve the Public Prosecution Service engaging independent barristers to handle prosecution cases) and ask him or her questions about the court process;
- have any special measures set up for you by the Northern Ireland Courts and Tribunals Service where these have been ordered by the court;
- have the Public Prosecution Service provide you with interpretation services, on request, when giving evidence or being questioned during criminal proceedings at court, where you do not speak or understand English;
- have someone from the Northern Ireland Courts and Tribunals Service or a witness support service provider go with you into the courtroom, or the live link room, when you give evidence, wherever possible and if permitted by the court; and
- have questions about court answered by a witness support service provider or be referred by them to someone who can answer your questions.

If you are a defence witness you will meet the defence legal representative, if circumstances permit, before you give evidence. You can ask questions that you may have about the court process. Where special measures have been granted by the judge, these will be set up for you by the Northern Ireland Courts and Tribunals Service. The defence legal representative will provide you with interpretation services, on request, when you are giving evidence or being questioned during criminal proceedings at court, where you do not speak or understand English.

94. If you are a prosecution witness and you need to leave the court building at any time, you should give your contact details to Northern Ireland Courts and Tribunals Service staff or a witness support service provider (witness services) so they can contact you if necessary. If you are a defence witness you should tell the defence legal representative.
95. If you are giving evidence, you can normally only watch the proceedings after you have given evidence. While at court, you can ask for further information on the court procedure from Northern Ireland Courts and Tribunals Service staff at the public counter.
96. Some cases are delayed or even put off until another date for various reasons; for example, an earlier case may have lasted longer than expected or an important person involved in the case has not arrived. Sometimes, a defendant pleads guilty on the day of the trial so you may be told at the last minute that your evidence is not needed.
97. You may also be required to wait at court before you are called to give evidence. The length of time that you will have to wait depends on the progress of other cases. If you are a prosecution witness you should let your witness support service provider know if you have been waiting a long time without receiving any information. If you are a defence witness you should ask the defence legal representative for an update. Every effort will be made to ensure that you will give your evidence promptly if you are a vulnerable or intimidated witness.

## Giving evidence

98. The district judge (magistrates' courts) usually sits behind a raised bench, but in the youth court the district judge (magistrates' courts), wherever possible, will sit at the same level as other people. The witness box is normally to one side, near the front of the court. In the Crown Court, you will also see an area for the jury to sit. You may also see other people in court such as court clerks, police officers, probation officers, newspaper reporters and other members of the public.
99. When you are called to give your evidence you will be shown to the witness box. You can take any relevant papers you have brought with you into the witness box but you may not refer to them without the permission of the judge. On entering the witness box, you will be told that you must take a religious oath, or, affirm (promise to tell the truth) which is a non-religious way of swearing to tell the truth. If you are under the age of 14 you will not be asked to take a promissory oath or affirmation.<sup>26</sup> In such circumstances the court will instead ask you if you understand what it means to tell the truth. You can also indicate if you would like to read the oath yourself from the card or repeat it after the clerk.
100. You will be expected to give your name in court when you give evidence.

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<sup>26</sup> In accordance with Article 33(2) of the Criminal Evidence (Northern Ireland) Order 1999.

101. When you give your evidence you should talk to the judge or, if there is one, the jury. You should call the district judge (magistrates' courts) 'Your Worship', a county court judge 'Your Honour', and a High Court judge 'My Lord'. While giving evidence, you can tell the questioner or judge if you do not understand a question, or if you feel unwell or particularly upset. The judge or magistrate may allow you to pause and have a rest before continuing. If you are a prosecution witness giving evidence by live link and feel that you will need emotional support in doing so, you can ask in advance to be accompanied by a trained witness supporter. This will normally be provided by Victim Support NI or NSPCC witness service. The court will then decide whether to allow this and you should be informed of the outcome.
102. If you have been called to give evidence at court you will be asked about what happened by the Public Prosecution Service and/or defence legal representative. This is known as cross-examination. The questioner may say or suggest something that you think is wrong. If this happens, you should clearly say that you disagree. You may also be challenged about your recollection of events and asked difficult questions. Your role as a witness is to tell the truth.
103. It is up to the judge to make sure the trial is conducted in a fair and just manner. The Public Prosecution Service prosecutor, or defence legal representative, will seek the court's intervention where they consider that questioning is not appropriate or is aggressive.<sup>27</sup> If you have been granted the assistance of a Registered Intermediary, it is their role to ensure you can understand the questions you are asked and that the court understands your answers.
104. Once you have given evidence, you should be thanked for your contribution to the court case and informed when you can leave the court by the judge. You may remain in the court building and can watch the rest of the case from the public gallery if you are aged 14 or over.

### **Standard 9.2: Your time at court**

Where you are to give evidence as a prosecution or defence witness, and where it is possible to do so, the Public Prosecution Service prosecutor (or representative) or defence legal representative, respectively, will:

- tell you, as quickly as is practicable if the case cannot be heard on the day;
- indicate how long you may have to wait before giving evidence and update you regularly during the day; and
- provide an explanation if the delay is longer than expected.

Everyone involved in your case will seek to ensure that you do not have to wait more than three hours at court before giving evidence. There are sometimes delays which are unavoidable. A police, prosecution or defence representative or the Witness Service (as appropriate) will, wherever possible, keep you informed about this.

Every effort will be made to ensure that you will give your evidence promptly if you are a vulnerable or intimidated witness.

<sup>27</sup> It should be noted that representatives operate in accordance with professional Codes of Conduct which include their conduct in court. The Bar of Northern Ireland's Code of Conduct is available online at [www.barofni.com/page/code-of-conduct](http://www.barofni.com/page/code-of-conduct). The Public Prosecution Service's Code for Prosecutors is available at [www.ppsni.gov.uk/Code-for-Prosecutors-5017.html](http://www.ppsni.gov.uk/Code-for-Prosecutors-5017.html)



105. It is recommended that you make arrangements in case delays do occur e.g. bring reading materials, make childcare arrangements, etc.

### **Standard 9.3: Safety at court**

When attending court as a prosecution or defence witness you may be concerned about your safety. Northern Ireland Courts and Tribunals Service security staff will take appropriate measures to make sure that you are safe, where you have advised them that you have concerns about your safety. You can ask the Northern Ireland Courts and Tribunals Service that an incident of intimidation is reported to the police. If you are a defence witness you can also advise the defence legal representative of your concerns around intimidation.

Where you are a prosecution witness you are **entitled** to, wherever possible, wait in a separate area from defence witnesses and supporters.

Court security officers search all court users entering the court building. Anyone who may disrupt court business or pose a threat to the safety of other court users will be removed from the court building.

## **Privacy and protection**

106. In some cases the Public Prosecution Service or defence legal representative can apply to the court for your identity not to be revealed, or reporting directions which prevent some details from being reported in the press, including images of you. The decision whether to grant this application rests with the judge. These measures could also include clearing the court where you are a witness to a sexual offence, trafficking or slavery.
107. Both prosecution and defence witnesses should immediately bring any act of intimidation – or risk of intimidation – to the attention of the police, who will carry out an investigation and take appropriate action to ensure your safety. Where you are a prosecution witness and your safety is at risk due to intimidation or threats the Victim and Witness Care Unit can also advise the police, where they are made aware of this.
108. You can speak to your single point of contact in the Victim and Witness Care Unit or the defence legal representative (for prosecution and defence witnesses respectively) if you have any queries or concerns about attending court. You should, however, contact the police without delay if you feel your safety is at risk.

### **Standard 9.4: Action on intimidation**

Where you report your concerns about intimidation to the police, as a prosecution or defence witness, you are entitled to have the police make an assessment and, where necessary and reasonable, bearing in mind the level, probability and immediacy of the risk, take steps to safeguard and protect you.

109. More generally, where service providers deal with both offenders and witnesses, they will take appropriate measures to avoid contact between prosecution witnesses and the offender, where necessary, within their premises where criminal proceedings are conducted. This would apply unless contact was needed for progression of the case or the criminal proceedings.



## Section 10: Outcome of proceedings, sentencing decisions and appeals

### Being informed of the outcome of the trial

110. If a case has gone to court you may want to know the result.

#### Standard 10.1: Outcome of trial

If you are at court giving evidence the prosecutor, or defence legal representative, can tell you about and explain the sentence given. If you are a prosecution witness you are **entitled** to ask the Victim and Witness Care Unit to tell you the result of the case and any sentence imposed. This information will not be provided automatically.

You can also contact the court to be told the outcome of the case and any sentence imposed.

### Appeals

111. If the defence (and in limited cases the prosecution) is unhappy with the court's decision, they may appeal or ask for a review of a sentence/conviction in a higher court. Depending on the nature of the case, witnesses might sometimes be required to provide evidence during the appeal process, where they can expect to receive the same standards as outlined in this Charter.

112. If an appeal is made to the County Court against a conviction or sentence in the Magistrates' Court or the Court of Appeal against a conviction or sentence in the Crown Court, and you are to give evidence the Victim and Witness Care Unit or defence legal representative as appropriate, can inform you about the date, time and location for giving evidence to an appeal.

### Post-trial support

113. Following the trial, if you are a prosecution witness and have given evidence, you are **entitled** to ask to be directed by the Victim and Witness Care Unit to witness support services, where appropriate and where they are available. A witness support service provider can offer you further advice and, if necessary, offer to refer you to specialist help and support.

### Claiming expenses

114. If you are a prosecution witness and are required to attend court to give evidence you may have to pay for aspects like your travel. You can apply to have this money paid back. This is subject to time limits for claiming money back and standard rates for travel and subsistence costs, as well as maximum daily amounts for loss of earnings. Expenses are not paid for making a statement to the police about the criminal offence. If travel arrangements are needed for you to give evidence, such as flights, your case officer in the Victim and Witness Care Unit can book these on your behalf to save you incurring the costs and reclaiming them.

115. Witness requirements to attend court, issued from the Victim and Witness Care Unit, will be accompanied by a witness expenses claim form. The form makes clear that expenses will only be paid on the days that you are asked to attend court; you will be paid whether or not you actually give

evidence, unless you have refused to give evidence. Details of how, under what conditions expenses can be reimbursed by the Public Prosecution Service and the rates that apply will be provided by the Victim and Witness Care Unit. These can be found at [www.ppsni.gov.uk/Publications-7873.html](http://www.ppsni.gov.uk/Publications-7873.html).

116. In summary, expenses information will be provided on the following where you are called to give evidence by the prosecution:

- **Subsistence allowances:** This is the level of day subsistence, and the amounts that are payable, where you are required to attend court for up to five hours, between five and 10 hours and over 10 hours. A night subsistence allowance or overnight allowance may also be payable in some cases.
- **Travel costs:** This is the mileage rate(s) that applies, where travel is incurred. This includes the rate where you use public transport, your own car, a motorcycle, bicycle or other transport.
- **Loss of earnings:** This is the allowance towards lost earnings that would apply for an absence from work of up to four hours and over four hours respectively, for those that are employed and self-employed, if you lose pay while you are required to be at court.
- **Other costs:** This is other costs that may be incurred, some of which would have to be receipt based.

117. You can speak to the court witness helpdesk by calling 0845 300 5770, if you are unsure about any aspect of completing an expenses claim as a prosecution witness. You will need to get your expenses form signed. Your form can be authorised on the day you are at court, being signed and dated by a Public Prosecution Service staff member or police officer, for you to then submit to the Public Prosecution Service along with relevant receipts. Details of where to return your expenses claim form will be set out within the form itself.

## Standard 10.2: Payment of Expenses

Where you are required by the Public Prosecution Service to give evidence at court. You are **entitled** to be:

- informed by the Victim and Witness Care Unit about when, how and under what conditions you can claim expenses for travel to and from the court, meals and refreshments, any loss of earnings incurred as a result of attending court and childcare costs where you have been called by the Public Prosecution Service to give evidence at court. In an emergency the Victim and Witness Care Unit will, upon request, arrange travel and accommodation where necessary and within guidelines;
- informed by the Victim and Witness Care Unit about expense rates and upper limits of allowances, including provisions relating to travel costs, childcare costs, other costs and loss of earnings;
- paid any expenses you are due, after you give evidence at court or attend court to give evidence; and
- paid by the Public Prosecution Service, not later than 30 days after they receive a correctly completed claim form, where you are eligible.

If you are a defence witness you should check with the defence legal representative regarding the payment of expenses.

## Section 11: What if your expectations aren't met?

118. The Witness Charter sets out your entitlements to services from various service providers, the standards that will apply and how you should be treated. It also sets out how you will be dealt with by defence legal representatives, if you are a defence witness, the standards that will apply and the information to be provided about giving evidence at court. All the service providers who provide information and services to you under the Charter must recognise and treat you in a respectful, sensitive, tailored, and professional manner without discrimination of any kind. If they fail to do so, or fail to provide the services set out under the Charter, you are **entitled** to have them look into the matter. You are **entitled** to be informed by all service providers about their complaints mechanism. You can ask the defence legal representative about their complaints mechanism if you are a defence witness. Further information on where to make a complaint, and how to contact the organisation in question, is set out below and in **Annex D**. This includes contact details of criminal justice service providers as well as information relating to relevant independent complaints bodies.

### Informal process

119. If you are a prosecution witness and you don't get the services or standards that you expect to receive under the Charter you can raise this issue, in the first instance, with the relevant service provider and then subsequently with an independent body (if necessary). Most service providers have a dedicated complaints officer.

#### Standard 11.1: How you will be dealt with

Where you are a prosecution witness and have concerns about a specific service provider you are **entitled** to:

- raise your concerns with the person you have been dealing with at that service provider, where you feel comfortable doing so and without any negative impact on the case, if you are not happy about the level of service provided;
- advise them that you feel that your entitlements under the Charter haven't been met;
- receive information on how to make a complaint using their internal procedures, including contact details, and the process for dealing with this (including how to take a complaint forward if you are not satisfied with the outcome of the initial investigation);
- have your complaint dealt with seriously and in a prompt, open and fair way;
- receive a timely response in an accessible language and format; and
- be informed what further steps are available if you are not satisfied with the outcome, including contacting an independent body.

### Independent review

120. If you are not satisfied with the response to your concerns from the service provider, you are **entitled** to raise the issue with an independent organisation who will investigate the matter on your behalf.

121. **Northern Ireland Courts and Tribunals Service:** The Northern Ireland Public Services Ombudsman investigates complaints against a range of Government Departments and their agencies. This includes the Northern Ireland Courts and Tribunals Service. There are three ways in which a complaint can be submitted – online, by returning a complaints form or by contacting the Ombudsman’s office (by phone, email or in writing). Further detail is provided at **Annex D**.
122. The Ombudsman has no legal powers to enforce actions. However, organisations will almost always accept recommendations in full. If the Ombudsman’s recommendations are rejected a report can be provided to the Northern Ireland Assembly. If you disagree with the findings in the report, you can challenge the decision in the High Court.
123. **Police:** The Police Ombudsman investigates all complaints against the police.
124. **Public Prosecution Service:** The Independent Assessor of Complaints investigates complaints against the Public Prosecution Service. The Assessor does not deal with complaints of a prosecutorial nature (i.e. complaints about why the Public Prosecution Service has, or has not, prosecuted someone). The Independent Assessor of Complaints also investigates complaints in relation to the Victim & Witness Care Unit.
125. **NSPCC Young Witness Service/Victim Support NI:** Victims and Witnesses Branch in the Department of Justice will investigate complaints made about services provided by NSPCC Young Witness Service and Victim Support NI that are not resolved internally by those bodies.
126. If you are not sure which service provider is responsible for dealing with your concerns you can contact Victim Support NI for advice.

### Defence witnesses

127. If you are a defence witness and you have concerns about how you have been dealt with under the Charter you should raise this with the defence legal representative. If you have a complaint regarding the conduct of the solicitor acting in the case you should make a complaint to the firm. Solicitors have to have their own in-house complaints procedure for complaints. This may be published on their website or should be available from their office upon request; complaints have to be made within six months and would be dealt with under that complaints procedure. Where you have concerns about how you have been dealt with by the defence barrister this matter can be raised with the Professional Conduct Committee of the Bar of Northern Ireland. This applies where it is considered that a barrister has fallen below the standards of professional conduct and practice required by barristers. Complaints can be submitted via the Bar of Northern Ireland website.<sup>28</sup>
128. If you are a defence witness and have concerns about how you have been dealt with by the defence solicitor, or the application of the standards under this Charter, you can raise this (as a second stage) with the Law Society of Northern Ireland. This is overseen by a Client Complaints Committee. Further information on the conditions of this are available on the Law Society of Northern Ireland website.<sup>29</sup>

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28 [www.barofni.com/page/complaint-form](http://www.barofni.com/page/complaint-form)

29 [www.lawsoc-ni.org/making-a-complaint/](http://www.lawsoc-ni.org/making-a-complaint/)

129. In reading this section account will need to be taken, in due course, of any changes emanating from the Legal Complaints and Regulation Act (Northern Ireland) 2016.<sup>30</sup> This provides for the establishment of a Legal Services Oversight Commissioner for Northern Ireland and makes provisions as regards complaints against members of the legal profession in Northern Ireland.

## Media complaints

130. There may be media interest in the case. If you consider that this is intrusive, you are getting unwanted press attention or are unhappy with media coverage, you can contact the Independent Press Standards Organisation which regulates the UK's newspapers and magazines. Further information is available at [www.ipso.co.uk](http://www.ipso.co.uk) or by phone (0300 123 2220). In relation to radio and television Ofcom deals with complaints. It has a duty to ensure that you are protected from being treated unfairly in television and radio programmes and from having your privacy invaded. Further detail about the types of complaints Ofcom deals with can be found at <https://www.ofcom.org.uk/tv-radio-and-on-demand/how-to-report-a-complaint> or by phoning 0300 123 3333. Some decisions may rest with the individual broadcaster rather than Ofcom.

## Comments on the charter

131. You will find information on service providers' websites about the best way to contact them to give feedback or comment on the services they provide. If you have comments on the Charter itself, rather than the services provided, you can send these to:

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

Email: [DOJVicW@justice-ni.x.gsi.gov.uk](mailto:DOJVicW@justice-ni.x.gsi.gov.uk)

Telephone: 028 9052 0550

Text phone: 028 9052 7668

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30 [www.legislation.gov.uk/nia/2016/14/contents/enacted](http://www.legislation.gov.uk/nia/2016/14/contents/enacted)

## Expert Witnesses

132. This section deals separately with expert witnesses. Not all services, standards or entitlements in this Charter are applicable to you as an expert witness. Standards 6.1, 6.6, 9.2, 9.3 and 9.4 in this Charter will apply to expert witnesses as they apply to other witnesses. These deal with:

- how expert witnesses will be treated;
- provision of information where you are to give evidence;
- your time at court;
- safety at court; and
- action on intimidation.

Should you have any queries about attending court as a witness, or any issues that you wish to clarify you should contact the person that has called you to court as a witness, that is, the Public Prosecution Service or the defence legal representative.

## Notification of date and location of trial

133. If you are required to attend court to give evidence the Victim and Witness Care Unit or defence legal representative will ask for your availability, depending on whether the prosecution or defence are calling you to attend. This information will then be given to the court when a date is being set for trial. Every effort will be made to accommodate your availability. The judge will make the final decision on the trial date.

134. The Victim and Witness Care Unit, or defence legal representative as appropriate, will notify you of the date, time and location of the trial. They will also advise you of this in relation to any appeal where you are required to give evidence.

## Expenses

135. If you are an expert witness from a criminal justice organisation you are **entitled** to claim expenses in line with your organisations expenses policy.

136. If you are an expert witness from outside the criminal justice system you are **entitled** to be informed by the Victim and Witness Care Unit or defence legal representative (depending on whether the prosecution or defence have called you to attend) about when, how and under what conditions you can claim expenses for travel to and from the court, meals and refreshments, any loss of earnings incurred as a result of attending court. In an emergency, if you are an expert witness for the prosecution, the Victim and Witness Care Unit will, upon request, arrange travel and accommodation where necessary and within guidelines.

## Annex B

### Summary of terms used in the Witness Charter

This section provides an explanation of the key words or phrases found in this Charter.

#### Appeal

An application to a higher court for a review of a decision (such as a conviction and/or a sentence) taken by a lower court, for example a conviction made in a Magistrates' Court will be appealed to the County Court or if on a point of law, to the Court of Appeal. The higher court may overturn or uphold the lower court's decision. Often, permission is required for an appeal to occur.

#### Bail (and bail conditions)

The temporary release of a suspect from custody, until his or her next appearance in court. This is sometimes subject to security being given and/or compliance with certain bail conditions, such as periodically reporting to a police station. Decisions on granting bail are a matter for the judiciary, who are independent. The law states that there is a presumption that the accused person will be granted bail, unless there are relevant and sufficient reasons to justify their continued detention (substantial grounds for believing that the accused will fail to surrender to custody, will interfere with witnesses or otherwise obstruct the course of justice or commit offences while on bail).

#### Complaint

A formal accusation against a person alleging that they have committed a criminal offence.

#### Conviction

A finding of guilt in any criminal proceedings that a person has committed an offence.

#### Court

A body of people presided over by a judge, and acting as a tribunal in civil and criminal cases. There are different types of court in Northern Ireland. All criminal cases, even the most serious, such as murder begin in the Magistrates' Court.

#### Cross-examination

The process by which a prosecution or defence legal representative orally challenges the evidence given by a witness in court.

## **Defence legal representative**

The solicitor or barrister representing a defendant. In Magistrates' Court cases a defence barrister will typically not be involved until court stage, while a defence solicitor will typically be involved at the pre-court and during the court stage. In Crown Court cases a barrister will be involved from the beginning in directing the case and running consultations.

## **Defendant**

A person who is accused in court of having committed an offence.

## **Entitlement**

Service(s) that must be provided to witnesses of criminal conduct from the relevant service provider.

## **Evidence**

Written or other material which is considered by a court when reaching a decision.

## **Guilty**

A plea entered by the defendant that he or she has committed the offence. The court may also find the defendant guilty after hearing the evidence in the case.

## **Information/Inform/Informing a witness**

The posting of a letter, the making of a telephone call, a face-to-face meeting or the sending of an e-mail, fax, text message or any other communication method that the service provider considers is most appropriate.

## **Judge**

A legally qualified person who administers the law and who has the authority to hear and try cases in a Court of Law.

## **Needs assessment/Assessment of needs**

An evaluation carried out by service providers to determine the kind of support that a witness may need following a crime. This process is used to identify any additional support, special measures or protection that a witness might need if they are going to be giving evidence to the police or in court and to help them do so.



## Not guilty

The plea the defendant enters when they do not accept that they committed the offence. The court may also find the defendant not guilty after hearing the evidence in the case.

## Offence

Any act contrary to criminal law or statute.

## Offender

A person who committed a crime.

## Ombudsman

An independent person who investigates complaints that individuals have been treated unfairly or have received poor service from certain service providers.

## Prosecution

The term used when criminal legal proceedings are taken against someone. In Northern Ireland that role is performed by the Public Prosecution Service, who are sometimes referred to as 'the Prosecution'.

## Prosecutor

A lawyer employed by the Public Prosecution Service, or independent counsel, who conducts criminal prosecutions on behalf of the Director of Public Prosecutions.

## Registered Intermediary

The role of a registered intermediary is to facilitate communication at the investigative and/or court stages of a criminal case. They help witnesses to understand the questions asked of them and to clearly communicate their answers. The intermediary can explain the questions and answers so far as necessary to help the witness but without changing the substance of the evidence. Registered intermediaries are not investigators and their role is not the same as appropriate adults,<sup>31</sup> witness supporters or expert witnesses.

## Sentence

A punishment or penalty given to a person found guilty by a court of an offence.

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31 An Appropriate Adult supports and advises a young person or vulnerable adult in police custody. This person is different to a solicitor and does not give legal advice. An Appropriate Adult can be a family member, friend, volunteer or social/health care professional.

## **Service provider**

A body required to provide services under the Charter, as set out in the Introduction to the Charter.

## **Statement**

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

## **Summons**

Order to appear before, or to produce evidence to, a court.

## **Suspect**

Someone who the police believe may have committed the crime.

## **Trial**

The process in which the evidence of a case is presented in court so that a judge or jury can decide whether or not someone who is accused of a crime is guilty.

## **Verdict**

Where a decision is reached that a person is guilty or not guilty.

## **Witness support services**

Organisations providing emotional and practical support services to witness of crime.

## **Witness**

A person who is called to give evidence in court because they saw or heard something relevant to the case.

## **Young person**

A person below 18 years of age.

## Annex C

## Further information

Below are details of the service providers covered by the Charter. If you have any difficulties getting in touch with the organisations you may wish to refer to their website, in case their contact details have changed.

### Belfast Harbour Police

Belfast Port Security Authority Limited,  
Milewater Basin,  
Dufferin Road,  
Belfast, BT3 9AF  
**Phone:** 028 9055 3000

### Northern Ireland Courts and Tribunals Service

Laganside House,  
23-27 Oxford Street,  
Belfast, BT1 3LA  
**Phone:** 028 9032 8594  
**Website:** [www.courtsni.gov.uk](http://www.courtsni.gov.uk)

### Public Prosecution Service

Belfast Region, Belfast Chambers,  
93 Chichester Street,  
Belfast, BT1 3JR  
**Phone:** 028 9054 2444  
**E-mail:** [info@ppsni.gsi.gov.uk](mailto:info@ppsni.gsi.gov.uk)  
**Website:** [www.ppsni.gov.uk](http://www.ppsni.gov.uk)

### Public Prosecution Service

Foyle Chambers,  
35 Limavady Road,  
Londonderry, BT47 6LP  
**Phone:** 028 7134 0648

### Victim and Witness Care Unit Belfast Office

Belfast Chambers,  
93 Chichester Street,  
Belfast, BT1 3JR  
**Phone:** 028 9026 4504  
**Email:** [wucubelfast@ppsni.gsi.gov.uk](mailto:wucubelfast@ppsni.gsi.gov.uk)

### Belfast International Airport Constabulary

Belfast International Airport,  
Belfast, BT29 4AB  
**Phone:** 028 9448 4400 (extension 4412)  
**Mobile:** 077 1081 9183  
**E-mail:** [duty.sergeant@bfs.aero](mailto:duty.sergeant@bfs.aero)

### Police Service of Northern Ireland

65 Knock Road,  
Belfast, BT5 6LE  
**Phone:** Non-emergency calls and general enquiries dial 101 (if you are a Tesco mobile or giffgaff user call 028 9065 0222) In an emergency dial 999  
**E-mail:** [info@psni.pnn.police.uk](mailto:info@psni.pnn.police.uk)  
**Website:** [www.psni.police.uk](http://www.psni.police.uk)  
**Crimestoppers:** 0800 555 111

### Public Prosecution Service

Newry Chambers,  
1 Downshire Close,  
Newry, BT34 1FD  
**Phone:** 028 3083 2500

### Victim and Witness Care Unit Foyle Office

Foyle Chambers,  
35 Limavady Road,  
Londonderry, BT47 6LP  
**Phone:** 028 7134 0632  
**Email:** [wcufoyle@ppsni.gsi.gov.uk](mailto:wcufoyle@ppsni.gsi.gov.uk)

## NSPCC Young Witness Service

### NSPCC Young Witness Service

Antrim Courthouse,  
30 Castle Way,  
Antrim, BT41 4AQ  
**Phone:** 028 9448 7533  
**Email:** [kagnew@nspcc.org.uk](mailto:kagnew@nspcc.org.uk)

### NSPCC Young Witness Service

Craigavon Courthouse,  
Central Way,  
Portadown, BT64 1AP  
**Phone:** 028 3834 9381

### NSPCC Young Witness Service

Newry Courthouse,  
23 New Street,  
Newry, BT35 6AD  
**Phone:** 028 3083 4849

### NSPCC Young Witness Service

1st Floor, Laganside Court,  
Oxford Street,  
Belfast BT1 3LL  
**Phone:** 028 9024 0847

### NSPCC Young Witness Service

17-21 Bishop Street,  
Londonderry, BT48 6PR  
**Phone:** 028 7127 9555

### NSPCC Young Witness Service

Omagh Courthouse,  
High Street,  
Omagh, BT78 1DU  
**Phone:** 028 8224 7856

## Victim Support NI

### Victim Support NI Witness Service

Albany House,  
73-75 Gt Victoria Street,  
Belfast, BT2 7AF  
**Phone:** 028 9024 3133  
**Email:** [info@victimsupportni.org.uk](mailto:info@victimsupportni.org.uk)  
**Webiste:** [www.victimsupportni.co.uk](http://www.victimsupportni.co.uk)

### Victim Support NI Witness Service

Antrim Court Office,  
30 Castle Way,  
Antrim, BT41 4AQ  
**Phone:** 028 9448 8631

### Victim Support NI Witness Service

Craigavon Court Office,  
Central Way,  
Craigavon, BT64 1AP  
**Phone:** 028 3834 3553

### Victim Support NI Witness Service

Dungannon Court Office,  
46 Killyman Road, Dungannon, BT71 6FG  
**Phone:** 028 8775 1550

### Victim Support NI Witness Service

Laganside Courts,  
45 Oxford Street,  
Belfast, BT1 3LL  
**Phone:** 028 9023 2523

### Victim Support NI Witness Service

Downpatrick Court Office,  
21 English Street,  
Downpatrick, BT30 6AB  
**Phone:** 028 4461 6233

### Victim Support NI Witness Service

Foyle Courts,  
17-21 Bishop Street,  
Londonderry, BT48 6PR  
**Phone:** 028 7127 9440

## Annex D

## Who to contact if you are not satisfied

### Internal investigation

#### NSPCC Young Witness Service

Antrim Courthouse,  
30 Castle Way,  
Antrim, BT41 4AQ

**Phone:** 028 9448 7533

**Email:** [kagnew@nspcc.org.uk](mailto:kagnew@nspcc.org.uk)

#### Police Service of Northern Ireland/Belfast Harbour Police/Belfast International Airport Constabulary

The Independent Police Ombudsman for Northern Ireland is responsible for recording and dealing with complaints made against the police.

The Police Ombudsman,  
New Cathedral Buildings,  
Writer's Square,  
11 Church Street,  
Belfast, BT1 1PG

**Phone:** 028 9082 8600 or 0845 601 2931

**Fax:** 028 9082 8659

**Email:** [complaints@policeombudsman.org](mailto:complaints@policeombudsman.org)

#### Victim Support NI\*

You can:

- write to Victim Support NI (see above);
- tell someone at your nearest Victim Support NI or Witness Service office. They will record your complaint; or
- contact the Complaints Officer on 028 9024 3133

In order to ensure a timely investigation you should raise any issues as soon as possible. If you aren't happy with the decision you can appeal by writing to the Victim Support NI Chief Executive. An investigation will be carried out and a final response will be issued within one month.

#### Northern Ireland Courts and Tribunals Service

Write to the relevant court in the first instance. If you are still not happy, you can contact:

Northern Ireland Courts and Tribunals Service  
Complaints Co-ordinator,  
Communications Group, Laganside House,  
23-27 Oxford Street, Belfast, BT1 3LA

**Phone:** 028 9041 2386

**Email:** [communicationsgroup@courtsni.gov.uk](mailto:communicationsgroup@courtsni.gov.uk)

#### Public Prosecution Service

You can contact the service by:

- Writing to Central Co-ordination Branch, Public Prosecution Service, Belfast Chambers, 93 Chichester Street, Belfast, BT1 3JR;
- Phone 028 9054 4797 for complaints concerning Belfast Region or any of the PPS Headquarters functions. Phone 028 7134 0632 for complaints concerning Foyle or Newry offices;
- An SMS text service is available for those who are deaf or hard of hearing on 07795 675 528;
- **Email:** [complaints@ppsni.gsi.gov.uk](mailto:complaints@ppsni.gsi.gov.uk);
- **Online:** [www.ppsni.gov.uk](http://www.ppsni.gov.uk)
- **Fax:** 028 9089 7069;
- speaking to any Public Prosecution Service staff at court; or
- contacting the Public Prosecution Service to make an appointment to visit one of their regional offices.

## Independent investigation

### **The Bar of Northern Ireland**

If you have concerns about how you have been dealt with by a legal representative (a barrister) this may be raised with the Bar of Northern Ireland.

The Bar of Northern Ireland

91 Chichester Street

Belfast, BT1 3JQ

**Phone:** 028 9056 2204

**Email:** [contact@barlibrary.com](mailto:contact@barlibrary.com)

**Online:** [www.barofni.com/page/complaint-form](http://www.barofni.com/page/complaint-form)

### **NSPCC Young Witness Service/ Victim Support NI**

Contact:

Victims and Witnesses Branch,

Department of Justice,

Castle Buildings,

Stormont Estate,

Belfast, BT4 3SG

**Phone:** 028 9052 0550

**Text Phone:** 028 9052 7668

**Email:** [DOJVictW@justice-ni.x.gsi.gov.uk](mailto:DOJVictW@justice-ni.x.gsi.gov.uk)

### **Law Society**

If you have concerns about how you have been dealt with by the defence legal representative you should contact them in the first instance.

Any outstanding issues with defence solicitors

should be raised with the Law Society of Northern Ireland, where this is within their remit:

96 Victoria Street

Belfast, BT1 3GN

**Phone:** 028 9023 1614

**Online:** [www.lawsoc-ni.org/contact-us/](http://www.lawsoc-ni.org/contact-us/)

### **Northern Ireland Courts and Tribunals Service**

A complaint may be submitted in three ways:

(i) Online by completing the online complaint form

<https://nipso.org.uk/nipso/making-a-complaint/online-complaints-form/>

(ii) Downloading and returning the complaints form, which is available at

<https://nipso.org.uk/site/wp-content/uploads/2016/03/N13-A4-NIPSO-A4-Complaints-form.pdf>

Contacting the Ombudsman's office by phone, email or in writing:

Northern Ireland Public Services Ombudsman,

Progressive House

33 Wellington Place,

Belfast, BT1 6HN

**Telephone:** 028 9023 3821

**Text Phone:** 028 9089 7789

**Freephone:** 0800 34 34 24

**Email:** [nipso@nipso.org.uk](mailto:nipso@nipso.org.uk)

**Freepost:** Freepost NIPSO

**Police Service of Northern Ireland/Belfast Harbour Police/Belfast International Airport Constabulary**

The Police Ombudsman,  
New Cathedral Buildings,  
Writer's Square,  
11 Church Street,  
Belfast, BT1 1PG

**Phone:** 028 9082 8600 or 0845 601 2931

**Fax:** 028 9082 8659

**Email:** [complaints@policeombudsman.org](mailto:complaints@policeombudsman.org)

The Police Ombudsman for Northern Ireland (PONI) is responsible for recording and dealing with complaints made against the police. If you have a complaint about the conduct of a police officer, contact the Police Ombudsman directly. You can:

- call into the Police Ombudsman's Office between 9am and 5pm, Monday to Friday. Please call 0845 601 2931 to make an appointment;
- write to the Police Ombudsman at the above address;
- phone the Police Ombudsman on 0845 601 2931 or 028 9082 8600;
- Email [complaints@policeombudsman.org](mailto:complaints@policeombudsman.org); or
- Complete the PONI online complaints form.

Alternatively, you can call into your local police station. They will not deal with your complaint, but will refer it to PONI as soon as possible.

**Public Prosecution Service**

The Independent Assessor of Complaints for the Public Prosecution Service,  
PO Box 928,  
Belfast, BT1 9AN

**Email:** [independent.assessor@gmail.com](mailto:independent.assessor@gmail.com)







**Copies available from:**

Victims and Witnesses Branch  
Department of Justice  
Castle Buildings  
Stormont Estate  
Belfast  
BT4 3SG

Email: [DOJVictW@dojni.x.gsi.gov.uk](mailto:DOJVictW@dojni.x.gsi.gov.uk)  
Telephone: 028 9052 0550

Published and printed by Digital Print Services,  
Craigtlet Buildings, Stoney Road, Belfast BT4 3SX  
Tel: 028 9016 3397

ISBN 978-1-908820-90-7

