



## **CROWN OFFICE AND PROCURATOR FISCAL SERVICE**

### **STATEMENT ON THE TREATMENT OF VICTIMS AND WITNESSES**

#### **1. OUR COMMITMENT**

The Crown Office and Procurator Fiscal Service (COPFS) is the public prosecution service in Scotland. We recognise the crucial role victims and witnesses play in the criminal justice process and are committed to ensuring that we treat victims and witnesses sensitively. We also aim to respect their privacy, where possible.

We treat all victims and witnesses in a fair, sensitive and ethical manner. We recognize that Scottish communities include people with different cultures, sexual orientation, religions, ethnicity, and physical and learning disabilities. Our aim is to respond to people in ways that respect their differences.

We are also committed to the principles in our Prosecution Code ([link](#)). The Code states that the prosecutor is required, in deciding whether to prosecute, to take into account the interests of the victim.

*This Statement describes the role of the prosecutor and explains how we will treat victims and witnesses.*

#### **2. WHAT WE DO**

Under the authority of the Lord Advocate, the Crown Office and Procurator Fiscal Service is, alone, responsible for the prosecution of crime in Scotland. The prosecutor (who is called the Procurator Fiscal or in High Court cases, the Advocate Depute) is independent and decides whether there is enough evidence to prosecute, and whether it is in the public interest to bring a prosecution.

There must be sufficient, admissible evidence before the prosecutor can take any action. “Sufficient” evidence means evidence from two separate sources establishing, firstly, that

the crime was committed, and secondly, that the accused was responsible. “Admissible” evidence means evidence which the law allows the prosecution to lead, and the court to have regard to. If there is enough evidence, the prosecutor must decide whether it is in the public interest to prosecute.

Deciding how the public interest is best served involves weighing up a number of factors, including: the interests of victims and witnesses, the needs of the wider community and fairness to the accused. The prosecutor will take into account the offence itself and other factors in deciding whether to prosecute. The prosecutor does not therefore act directly for individual victims, witnesses and next of kin. The prosecutor decides whether to prosecute, and also what the charges will be and therefore in which court the case will be heard.

The more serious the offence, the more likely it is that the public interest will require a prosecution.

### **3. WHAT WE OFFER VICTIMS AND WITNESSES**

So that we can help victims and witnesses, COPFS has established a dedicated victim service called Victim Information and Advice (VIA). The national roll out of VIA was completed in December 2004. VIA staff are not prosecutors. Their job is to assist certain categories of victims, vulnerable witnesses and next of kin. VIA staff provide information about the criminal justice system, giving updates on the progress of the case and advising victims about - or referring them to - other agencies which can provide support.

VIA currently offer a service to victims and vulnerable witnesses in cases that involve domestic abuse, racist crime and sexual offences, are likely to be heard by a jury or those that involve child victims and/or witnesses. The service is also offered to the next of kin in certain cases of sudden, unexpected or crime-related deaths. Individuals who are considered vulnerable, and therefore in need of additional support, may also be referred to VIA. This can include victims and/or witnesses with learning difficulties, a physical disability or other impairment or those whose sexual orientation or relationship with the accused may give rise to particular vulnerability.

### **4. STATEMENT OF POLICY – STANDARDS OF SERVICE**

We understand that being a victim of, or witness to, crime can be distressing and that attending court can be a worrying and stressful time. We aim to treat victims and witnesses at all times with dignity and respect.

*The standards we set out here tell victims and witnesses what they may expect from us during the prosecution process.*

## **A. Investigation and precognition**

### ***We will:***

1. Keep victims and vulnerable witnesses in VIA cases advised of the progress of cases. In offices where the VIA service is not yet available, the Procurator Fiscal will give updates in cases involving sexual offences in the High Court, in homicides or where there are child witnesses.
2. Ensure that those victims and witnesses asked to attend for “precognition” (an interview with a member of prosecution staff in serious cases where we are making further inquiries) are given the name of a person to contact. This person will be able to give information about the criminal justice process and answer queries about case progress. The form requesting attendance at precognition contains a section to claim travel and subsistence costs incurred in attending precognition.
3. Ensure that victims and witnesses who are eligible for the services of VIA receive that service promptly, including the offer of onward referral to support agencies with whom we work.
4. Seek to expedite the processing of cases involving children and other vulnerable witnesses (including those with learning difficulties, mental health problems, victims of sexual offences and victims whose first language is not English)
5. Respond to requests for information about the reasons for decisions, consistent with our policy and with confidentiality requirements
6. Take account of information available to us about the impact on victims or vulnerable witnesses were an accused to be released on bail, and advise the court accordingly. We will ensure that any special conditions of bail, made for the protection of a particular victim or witness, are passed on to them as soon as possible and no later than the next day. In VIA cases we will also advise about what to do if the accused breaches the conditions of bail. If this happens, we will consider whether another criminal charge should be brought or whether to seek a Bail Review.

## **B. Arrangements for trial:**

### ***We will:***

1. Ensure that only witnesses necessary to prove the charge(s) are called to give evidence.
2. Send out a leaflet, called “Being a Witness”, with the witness citation. (The citation is the official document giving witnesses details of where and when they are required to attend).
3. Help arrange a visit to court, before the trial, for those witnesses who wish it, normally through the Court Witness Service.
4. Assist in making arrangements for witnesses with a known disability to get to court.

5. Arrange for a trained interpreter for witnesses where we know English is not their first language and provide translated documents in their preferred language, including the leaflet "Being a Witness".
6. Ask the court that children, and some other very vulnerable witnesses, be allowed to give their evidence behind a screen in court or by means of a television link if it is assessed that that would help the witness.
7. Ask the court to allow a support person to accompany a child or vulnerable witness while giving evidence, if that is what the witness wants.

### **C. At court**

#### ***We will:***

1. If court business allows, introduce ourselves before trial to vulnerable victims in serious cases (where there is a jury) and whenever possible in less serious cases (where there is a judge only).
2. In the event that the defence seeks to postpone the trial, inform the court of any available information about the likely effect on victims and vulnerable witnesses of any delay to the trial.
3. Inform the court, when it is considering sentence, of the known impact of the crime on victims and vulnerable witnesses.
4. Object to defence questioning which is abusive or unjustifiably intrusive or aggressive.
5. Respect privacy by not asking witnesses to reveal their home address in court, except where this is necessary to prove the crime.
6. Ask the judge to arrange in sexual offence trials for everyone who does not need to be there to leave the court ('clear the court') and also in cases where children are giving evidence.
7. Advise the sentencing judge of any known financial loss suffered by the victim as a direct result of the crime so that the judge can consider making a compensation order.
8. Advise eligible victims, where the accused is sentenced to 4 years or more, about the Victim Notification Scheme, operated by the Scottish Prison Service, which can give information about prison release arrangements.

### **D. After trial**

#### ***We will:***

1. Help where we can to answer queries on the outcome of the case.
2. Arrange for prompt payment of prosecution witness expenses. Expenses can be paid by us towards loss of earnings, travel and subsistence costs, childminding fees and carer's fees.
3. Make prompt decisions about the return by the police of belongings which have been used in evidence as productions, or destruction of hazardous items, subject to any appeal lodged by the accused.

## **E. Victims and Witnesses from Minority Ethnic Groups**

We recognise that some minority ethnic victims and witnesses may have particular needs by reason of language and culture. We are aware that to ensure the equal treatment of individuals from different ethnic groups, different arrangements may be required.

All victims of racist crime, all asylum seekers who are witnesses to any crime and any minority ethnic victim or witness who may have difficulties communicating in spoken English, or where there may be cultural sensitivities will be referred to local VIA services. VIA can provide victims and witnesses with details of specialist support organizations. In addition, we will:

1. Arrange for case information to be translated, if necessary, for a victim or bereaved relative.
2. Arrange for an interpreter to be available, if necessary, when victims and witnesses attend for precognition.
3. Assist in providing an interpreter at court when victims and witnesses are called to give evidence.

### **Follow up**

We will keep this Statement under regular review. Any comments you have about its content will help us with that review and can be e-mailed to Policy Group at [policygroup@crowncopfs.gsi.gov.uk](mailto:policygroup@crowncopfs.gsi.gov.uk). If you have any questions about these Standards, again, please contact Policy Group, Crown Office, at [policygroup@crowncopfs.gsi.gov.uk](mailto:policygroup@crowncopfs.gsi.gov.uk).

If you have a complaint about any aspect of your treatment by COPFS please view our complaints procedure.

