



ACTION dispels fear

Solving the problem of
witness intimidation

Revised edition, 2009

CRIMINAL JUSTICE SYSTEM



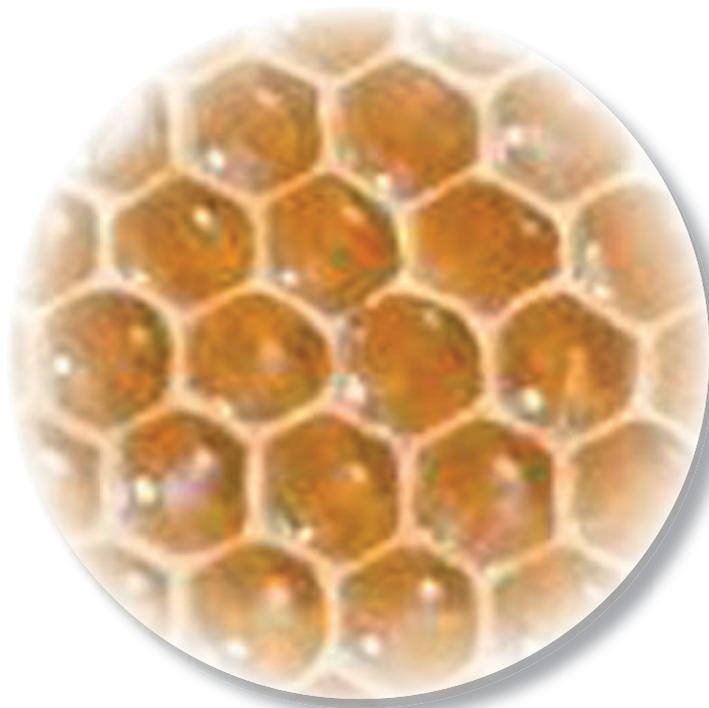


With thanks to the Merseyside Police and the Breckfield Making WAVES Project for their contributions to this revised edition.

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“ Nothing’s being done or if it is done we don’t know and can’t tell. What’s the point in making a report? We feel like we’re just constantly complaining but still getting nowhere. ”

Interviewee 5 for Knowsley and Wirral Intimidated Witness Project: Analysis of Service Provision, JMU, July 2007

Introduction

If witnesses are to support the prosecution process, the criminal justice system (CJS) must have effective measures for identifying and dealing with those who suffer intimidation.

This is not just the role of the police. Under the Code of Practice for Victims of Crime, criminal justice agencies also have a statutory duty to provide an enhanced level of service to victims of crime who suffer intimidation. The Witness Charter will introduce a similar duty to support witnesses

– although this duty is not statutory. Both the Code of Practice and the Charter aim to ensure that victims receive information, support and regular updates about how their case is progressing.¹

What is this guide?

This revised guide brings together good practice in managing intimidated witnesses from across the country. It includes recent case studies from the Making WAVES project. Based at the Breckfield Community Centre in Liverpool, the

project aims to provide support for witnesses and improve confidence and co-operation between the police and the criminal justice system. Monitored by the John Moores University (JMU), it has produced some interesting results.²

This guide also focuses on multi-agency working practices. It highlights some of the positive examples of how to build and maintain trust with intimidated witnesses, through multi-agency co-ordination and support, so they remain engaged in the CJS process.

¹ You can find more information on the Code of Practice for Victims of Crime and the Witness Charter at <http://frontline.cjsonline.gov.uk/guidance/victims-and-witnesses>.

² John Moores University evaluation of Making WAVES Project is available at www.cph.org.uk



“ I didn’t have a clue what to do. They actually got my head sorted, because they gave me what I can do and what I can’t do. They made me feel empowered and more in control of myself...to make the decisions I needed to make. ”

Interviewee 10 for Knowsley and Wirral Intimidated Witness Project: Analysis of Service Provision, JMU, July 2007

The needs of intimidated witnesses

Intimidation can be a very disabling experience for many witnesses, and this is true whether the intimidation is direct, perceived or implicit (when witnesses face a real but unexpressed threat of harm). Implicit intimidation is a particular problem in areas where gang violence creates community-wide fear that prevents witnesses from coming forward.

Offering support for witnesses through the CJS journey

Intimidated witnesses need intensive support from the moment they witness a crime. Some will be repeat victims who may be suffering other forms of victimisation, for example having to leave their home to avoid danger. Some will feel concerned or guilty about the danger they are

exposing their families to, and they will expect anonymity, confidentiality and protection from intimidation by the offender/s and/or their associates.

If we don’t meet these needs and expectations, witnesses start to lose confidence and may become reluctant to make a statement and/or press charges.

High-quality pre-charge support at the first point of contact is vital in building trust. However, this level of support needs to be sustained throughout the whole process of reporting the crime, making a statement, entering the court procedures and post sentence.

Meeting witnesses' needs

There is no overestimating the importance of support for victims of intimidation. Agencies need to make every effort to understand what lies behind the victim's fear, so that they can then address their concerns and encourage them to stay with the process.

It is important to provide both emotional support (for example reassurance) and practical support that is tailored to the witness's needs.

To underpin attempts to keep a witness well informed, you must have effective communication between all the agencies which are playing a part in their support. (See page 27 for more information on effective joint agency working.)

Tackling intimidation

There should be a standard local procedure or protocol for handling intimidated witnesses and referring them to the right agencies. This should include robust systems which are geared to respond quickly to intimidated witnesses who come forward.

It is important that, in every case, agencies work together to establish such systems. This should be done with clear lines of accountability so that everyone knows who is responsible for what.

Top tip

Open and honest communication is vital for building trust with intimidated witnesses, and the first impression you give is very important. Potential witnesses need to be reassured and convinced that:

- they are recognised and appreciated for taking a stand and doing their civic duty;
- keeping silent does not necessarily stop intimidation. However, support is available from Victim Support and other agencies, including voluntary organisations, should they need it; and
- you are not making promises you can't keep and will manage their expectations honestly.



“We raised enough confidence for them [witnesses] to know where to get help and support right at the beginning. This project has given witnesses the confidence that they are being taken seriously.”

Project worker, Making WAVES project, Breckfield 2008

What you can do to help an intimidated witness

Intimidation occurs for many reasons, every case is unique and the reasons for fearing intimidation, as well as the appropriate means of stopping it, will vary from witness to witness.

Ultimately, however, an intimidated witness has three key needs:

1. Safety

They need to feel secure and protected, knowing

that everything has been done to minimise the risk of intimidation to themselves and their families.

2. Information

They need to know what is happening with the case and not be kept ‘in the dark’ about its progress.

3. Support

They must not feel isolated. Intimidated witnesses need

easy access to people and services that can support them and enable them to stay engaged with the process.

Individual approach

It is vital to assess the needs of each witness on an individual basis, and take the appropriate measures to protect, inform and support the witness based on the unique requirements of each case.

Working together

The police, Witness Care Units (WCUs) and voluntary support organisations all have a role to play in helping a witness to feel safe, informed and supported. By working together to manage the witness experience, more witnesses will stay engaged in the court process, and this will ultimately increase public confidence in the criminal justice system.

Engaging the public

It is crucial to enlist the help of previous witnesses, when informing local communities about attempts to tackle witness intimidation and encouraging participation in the criminal justice system.

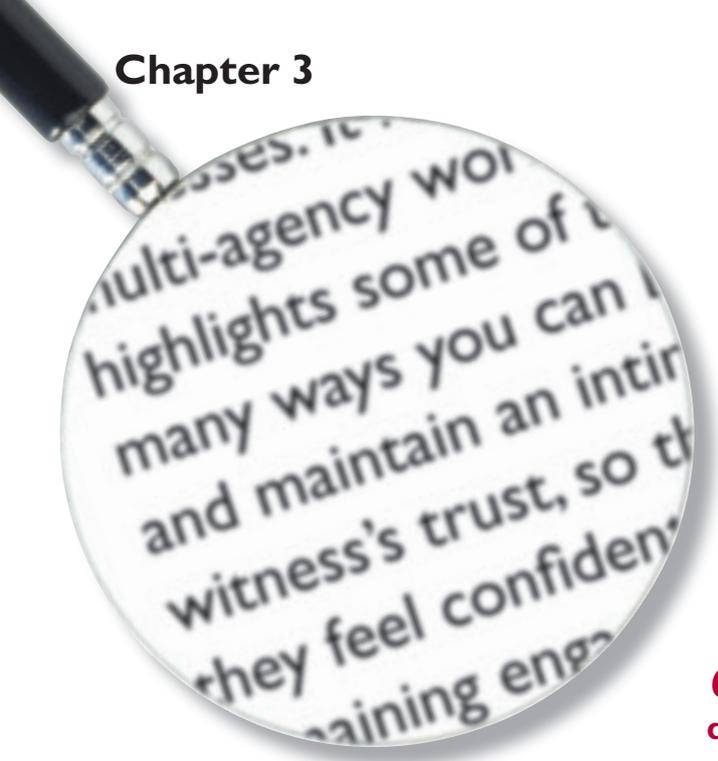
Having had first-hand experience of the system will enable these previous witnesses to act as volunteers

and offer support to others. Examples of successful cases can also encourage participation in the process. Statistics highlighting these facts can be conveyed to the community using a variety of media including leaflet drops, radio campaigns, video screenings, positive press reports and community forums.

Top tip

Don't confine the support to a person's home. Providing more extensive support will enable the witness to lead a normal life.

Put the witness in touch with community support agencies, such as witness support programmes, peer groups, neighbourhood police teams and resident associations, as soon as possible.



“We’ve shown people they can make a difference.”

Co-ordinator, Making WAVES project, Breckfield 2008

Identifying the risk of intimidation

Many witnesses will experience some sort of intimidation, even if it is just the fear that they might be harassed. Whether real or ‘imagined’, fear of intimidation can still be a major barrier stopping a witness from reporting a crime or giving evidence. It is also important to remember that just because a witness has not been intimidated yet, it does not mean they won’t be in the future.

Risk assessment

Potential and actual witnesses are more likely to support the prosecution process if they know that the criminal justice system has effective measures to identify and deal with intimidation.

A risk assessment by the police forms an important part of these measures.

Why conduct a risk assessment?

The lower the risk of intimidation to a witness, the more likely it is that the witness will remain engaged in the criminal justice system.

The more we know about the risk a witness faces, the easier it is to provide effective support through their CJS journey. Risk assessments should therefore be re-considered by each of the CJS agencies along the way.

For police officers, a risk assessment provides important information for considering the appropriateness of bail and bail conditions – either at point of charge or through the courts.

Where the police are the first point of contact, they should check whether a witness is at risk, or is likely to be at risk, of intimidation. They should give the witness advice on personal and home security and refer them to appropriate agencies that can provide further support.

The police should also provide the witness with details of how they can be contacted. However, they should make it clear that they should always dial 999 if they feel they are in a situation that poses a severe risk.

Where risk factors are present, police officers will be able to work with other agencies to mitigate those risks. Further information about how to conduct a risk assessment is provided in Chapter 4.

How you can help

If your agency holds information which is crucial to a risk assessment, use that information proactively by working with the police and/or other agencies to prevent intimidation from occurring as soon as possible.

Pass reports of intimidation to the police immediately, and offer to help with the investigation, taking appropriate action to ensure the safety of those involved.

See the case study on pages 29–34 for an example of how effective joint working between the police and other criminal justice agencies can really make a difference.

but have a history of violent behaviour	0	Suspect or their associates have been involved in harassment or intimidation for harassment or intimidation
the witness has been harassed by the suspect and withdrawn from the witness	2 1 0	Yes Unsure No
Relationship between the witness and the suspect	2 1 0	They know each other well They are 'known' to each other They do not know each other
Are the witness and suspect part of a community or group?	2 1 0	They are closely linked by family or friendship They are part of the same community They are not part of the same community
Proximity to the incident	2 1 0	The witness lives/works at the same address as the suspect The witness lives/works near the suspect The witness does not live/work near the suspect at the time of the incident

Assessing the risk of intimidation: The Scorecard Toolkit

The Scorecard Toolkit will help to assess the level of risk and tailor the support you give to protect a witness. Be aware that using the toolkit does not automatically mean there is a risk. It is simply a way to assess whether there is a possibility of the witness being intimidated and what action can be taken.

Why you should use the Scorecard Toolkit

The Scorecard Toolkit will help you to assess the degree of risk to a witness or the extent to which the fear of intimidation is affecting their decisions.

It is important for each organisation to reassess the witness's circumstances at each step of the journey.

The scoring system addresses a number of factors that are proven to increase the risk of intimidation. It will allow you to:

- identify which factors are putting the witness at risk;
- assess the possible levels of intimidation realistically; and

- assess the amount and type of support you can recommend to reduce the risk of intimidation.

How to use the Scorecard Toolkit

1. Applying your understanding of the witness's circumstances, mark the responses which match the witness's situation as accurately as possible.
2. If you don't know or are unsure of the answer to some of the questions, try to get more information from the witness. If they are reluctant or unable to answer, use your own knowledge and judgement.
3. Once you have completed as many of the questions as possible (using your judgement where necessary to complete the card), add your scores together and assess the overall score.
4. Using the score guide, check against the scale to determine whether the witness is at a high, medium or low level risk of intimidation.
5. Once you have rated the level of the risk, take the appropriate action as stated on the Potential Action Scale, and inform the witness of the results. Discuss your actions with them to ensure it meets their needs.

Top tip

Fear of intimidation is as real as actual intimidation, and must be taken seriously.

A: The risk of intimidation

1 History of intimidation

a. Does the suspect (or their associates) have a history of or reputation for intimidation or harassment?	<p>6 Suspect or their associates are currently harassing the witness</p> <p>4 Suspect or their associates have harassed the witness in the past</p> <p>2 Suspect or their associates have not harassed the witness, but have a history of or reputation for harassment or violent behaviour</p> <p>0 Suspect or their associates have no history of or reputation for harassment or intimidation</p>
b. As far as you are aware, has the witness previously been a victim of harassment or intimidation (not from the suspect or their associates), or withdrawn from a previous case?	<p>2 Yes</p> <p>1 Unsure</p> <p>0 No</p>

2 Witness – suspect relationship

c. How well do the witness and the suspect know one another?	<p>2 They know each other well</p> <p>1 They are 'known' to each other</p> <p>0 They do not know each other</p>
d. Are the witness and suspect part of a similar community or social group?	<p>2 They are closely linked by family or friends</p> <p>1 They are part of the same community/social group</p> <p>0 They are not part of the same community/social group</p>
e. Does the witness live/work close to the scene of the incident?	<p>2 The witness lives/works at the scene of the incident</p> <p>1 The witness lives/works nearby</p> <p>0 The witness does not live or work near the scene of the incident</p>

3 Witness vulnerability

f. Has the witness expressed any fear that they might suffer intimidation or harassment as a result of being involved in the case (by reporting the crime, giving evidence in court, etc.)?	<p>2 Yes</p> <p>1 No, but they appear nervous about being involved in the case</p> <p>0 No, there is no indication that they fear intimidation</p>
g. How would you describe the witness's behaviour?	<p>2 The witness appears nervous and/or traumatised and has concerns about being involved in the case</p> <p>1 The witness appears calm but has concerns about being involved in the case</p> <p>0 The witness has few concerns about being involved in the case</p>
h. Does the witness have a good support network to draw on (friends, family, etc.)?	<p>2 The witness is isolated from people who can offer support</p> <p>1 The witness has a few people to draw on for support</p> <p>0 The witness has a close network of people to draw on for support</p>

RI Score (out of 20)

4 Other factors – use this box to describe any other factors that might make it more likely that the witness will feel intimidated (e.g. language barriers, mental health, case history, etc.).

Based on these factors and your own judgement, adjust the scoring accordingly.

Final RI Score

Low 0 2 4 6 8 10 12 14 16 18 20 High

Risk of intimidation

B: Potential actions

Potential actions should be used as a **guide**, and should be used in combination with your own judgement of what support and protection are required in any given situation. All action taken as a result of your assessment should be discussed with the witness to ensure that it meets their needs.

HIGH	20	<p>Police</p> <ul style="list-style-type: none"> Take practical steps to safeguard the witness's safety and security, referring to Housing or ASB Unit where appropriate, e.g. applying for the installation of alarms, CCTV etc.
	19	<ul style="list-style-type: none"> Apply to CPS for Special Measures on the basis of potential witness intimidation (if desired by the witness). Prioritise contact and support for this witness.
	18	<ul style="list-style-type: none"> Consider remanding the suspect in custody/arrange bail conditions – discuss with CPS. Consider referring to specialist police witness support units. Refer the witness to Victim Support and other support organisations where appropriate.
	17	<p>Voluntary organisations</p> <ul style="list-style-type: none"> Prioritise one-to-one support for this witness. Prioritise advocacy work with Housing and ASB Unit to improve witness security.
	16	<p>WCU</p> <ul style="list-style-type: none"> Prioritise meeting this witness's needs for support. Check that Special Measures have been applied for. If not, discuss with CPS.
	15	<ul style="list-style-type: none"> Regularly contact the witness to monitor the situation, alerting the police if you think intimidation is occurring.
	14	<ul style="list-style-type: none"> Liaise closely with Victim Support and the Witness Service, and other voluntary support organisations.
MEDIUM	13	<p>Police</p> <ul style="list-style-type: none"> Discuss support options with the witness, referring the witness to Victim Support and other support organisations where appropriate.
	12	<ul style="list-style-type: none"> Take practical steps to safeguard the witness's safety and security – discuss with your supervisor and consider applying for the installation of alarms, CCTV etc. Consider imposing conditions on bail that will keep the suspect from approaching the witness – discuss with CPS.
	11	<ul style="list-style-type: none"> Consider applying for Special Measures (if desired by the witness) – discuss with CPS.
	10	<p>Voluntary organisations</p> <ul style="list-style-type: none"> Meet the witness's needs for support. Undertake advocacy work with Housing and ASB Unit to improve witness security.
	9	<p>WCU</p> <ul style="list-style-type: none"> Offer standard WCU service, being conscious of any changes in circumstances that might give rise to intimidation. Make every effort to ensure that there is no opportunity for the witness to be intimidated or harassed at the court.
	8	<ul style="list-style-type: none"> Liaise closely with Victim Support and the Witness Service, and other voluntary support organisations.
	7	<ul style="list-style-type: none"> Re-contact the witness and adjust support offered if their requirements have changed (e.g. the risk of intimidation may increase).
LOW	6	<p>Police</p> <ul style="list-style-type: none"> Where necessary, refer the witness to Victim Support and other appropriate local/national support organisations. Take practical steps to safeguard the witness's safety and security.
	5	
	4	<p>Voluntary organisations</p> <ul style="list-style-type: none"> Offer any necessary support to witness.
	3	
	2	<p>WCU</p> <ul style="list-style-type: none"> Offer standard WCU service, being conscious of any changes in circumstances that might give rise to intimidation.
	1	
	0	<ul style="list-style-type: none"> Liaise closely with Victim Support and Witness Service, and other voluntary support organisations.

“Some of the officers did [provide support], some of them didn't want to know. It was like ‘We haven't joined the police force to be dealing with this; we want to be out catching proper criminals.’ And time and time again, I used to say ‘Well, you try living next door to him...’”

Interviewee 2 for Knowsley and Wirral Intimidated Witness Project: Analysis of Service Provision, JMU, July 2007

Intimidated witnesses in social housing: How Registered Social Landlords can help

Where a witness or victim lives in social housing, it may be more effective to use the civil system to support the witness and deal with the intimidation.

Social landlords: anti-social behaviour policy

Residents have a right to the quiet enjoyment of their homes and communities. The Anti-Social Behaviour Act 2003 requires all social landlords to publish a statement of policies and procedures outlining their approach to ASB, containing clear information on how they will deal with ASB.

Key definitions of anti-social behaviour

- All forms of violence including verbal and physical abuse including threats, whatever the motivation.
- Racial and other forms of harassment.
- Domestic violence.
- Criminal activity, including burglary and drug dealing.
- Noise nuisance, dumping of rubbish, dog fouling, uncontrolled pets, car repairs.

- Gathering of youths acting in an intimidating manner.
- Misusing alcohol and solvents.

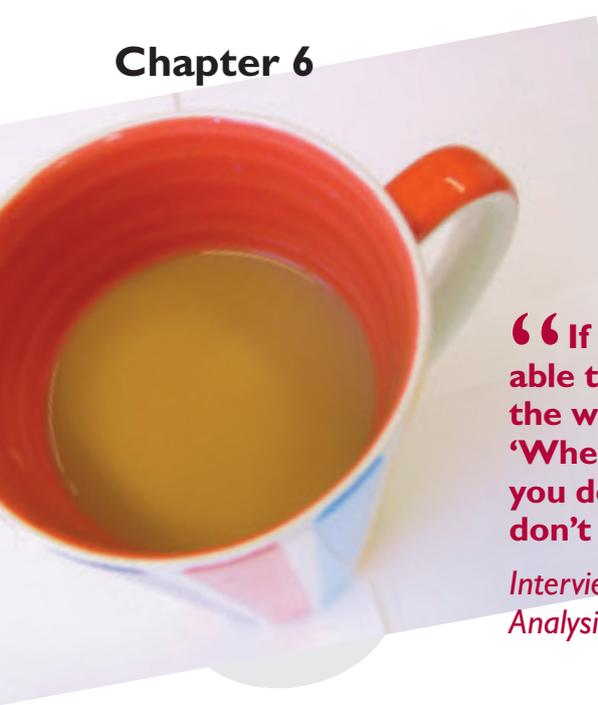
If early intervention is taken on ASB it helps to prevent an escalation and ensures residents and the community do not become disillusioned over lack of action. Mediation services are key to helping a situation from escalating into a court action. Further information is provided in the Scorecard Toolkit on page 16.

B: The scorecard system – social housing

Potential action

Potential action should be used as a guide and alongside your own judgement of what support and protection are required in any given situation. All action taken as a result of your assessment should be discussed with the witness to ensure it meets their needs.

HIGH	20	Take practical steps to safeguard the witness's safety and security e.g. liaise with relevant support agencies and consider relocation options and/or legal proceedings such as an Injunction Without Notice, Exclusion Order etc.
	19	Discuss support options with the witness, arrange target hardening, sanctuary schemes and any other appropriate actions.
	18	Liaise with the police and courts to consider any special arrangements that may be required to support court attendance.
	17	Refer the witness to the appropriate support agencies such as Victim or Witness Support and/or voluntary agencies. Increase level of support from all areas, including the Safer Neighbourhood Team.
	16	Partnership Solutions: follow your organisation's policy and procedures for witness support from internal and external agencies, as before.
	15	Consider appropriate enforcement action against the alleged perpetrator for breach of tenancy conditions e.g. Notice Seeking Possession or Demotion.
	14	
MEDIUM	13	Discuss support options with the witness, and arrange target hardening, sanctuary schemes and other appropriate options. Involve local police liaison officers with regard to target hardening and community confidence.
	12	Continue practical steps to safeguard the witness's security and safety with physical improvements to the property (fencing, lighting, locks etc.).
	11	Meet the witness's need for support by working with the local authority to undertake any necessary work with Housing and ASB Unit.
	10	Consider offering the witness early intervention solutions such as mediation and/or restorative justice and refer the process to witness support programme. Liaise closely with the agencies involved, including Victim Support and the Witness Service.
	9	Partnership Solutions: follow your organisation's policy and procedures for witness support and continue to maintain regular contact with the witness. Consider appropriate enforcement against the alleged perpetrator, such as seeking an Injunction with Notice.
	8	
	7	
LOW	6	Take practical steps to safeguard the witness's security and safety – arrange an assessment for physical, practical and environmental improvements to the property (lights, locks etc.).
	5	Offer the witness early intervention solutions and consider referrals process and witness support programmes/projects. Consider all options such as mediation/restorative justice programme for the witness and perpetrator and give out local information packs with all agency contact details. Endeavour to build trust with both parties through good and regular communication and ensure they have continuity of service with the same contact person throughout. Where this is not possible ensure the replacement officer/manager is promptly introduced.
	4	
	3	
	2	
	1	
	0	Partnership Solutions: offer standard support and consider practical steps for resident and neighbourhood with local Crime Prevention Officers, SNT, peer support groups and the Witness Support Programme. Consider the options of Demotion, shortened tenancy and denial of certain rights such as the Right to Buy. Give space and opportunity to both parties to improve behaviour before issuing warnings and options (e.g. for eviction etc.).



“ If they hadn’t been there for me I wouldn’t have been able to stand and argue with them [perpetrator’s lawyer] the way I did. They reassured me. They told me things like ‘When you go in there, they’ll talk a load of jargon and if you don’t understand it just say you’re not sure [or] you don’t know. Don’t be intimidated.’ ”

Interviewee 1 for Knowsley and Wirral Intimidated Witness Project: Analysis of Service Provision, JMU, July 2007

Reassuring intimidated witnesses

Intimidated witnesses need a single point of contact who will oversee the case and maintain continual communication.

It is important to have a structured approach to supporting the witness, with milestones and time limits for the various stages through the criminal justice process. Divide the case progression into stages,

explain each stage to the witness and ensure they know what to expect at each stage and what will follow.

Provide a clear explanation of sentencing decisions. Manage the witness’s expectations as to the possible outcome beforehand. A ‘light’ sentence can destroy the confidence of the

witness in the system and they may blame themselves or their testimony for a failed prosecution or light sentence.

Techniques for building trust

- 1** Be honest: manage the witness's expectations about what a realistic outcome may be.
- 2** If appropriate, ensure that the witness is referred to Victim Support or the Witness Service at the earliest opportunity.
- 3** Ask the witness about what they want and what they would like to happen with the case – manage their expectations of what is realistic to expect. This helps you show that you understand their point of view, and gives them back some control.
- 4** Keep in contact with the witness, keep them informed and continue to explain the process that lies ahead – the witness may not have heard or understood it the first time.
- 5** Don't be afraid of bringing in other agencies to help you support the witness – the witness's needs come first.
- 6** Acknowledge that testifying and going ahead with the case is difficult but demonstrate that you are putting measures in place to help make it easier.
- 7** If you don't know the answer to a question, say so and promise to find out the answer.
- 8** Don't promise anonymity if you can't deliver it.
- 9** Put the witness in touch with appropriate voluntary organisations that they can speak to in confidence.
- 10** Remember that first impressions count. You may not get a second chance to win their trust.
- 11** Remember that last impressions count. If the courts/sentencing stage of the process is badly managed, the witness may leave the system with little confidence in its ability to deliver – even if everything else has gone well.
- 12** If bail conditions change, a mechanism needs to be in place to inform the witness, for example someone in the court needs to update the Witness Care Unit which, in turn, will update the witness.
- 13** Thank the witness for attending court.
- 14** Show respect for the witness by not making them wait unnecessarily.
- 15** Inform the witness about how to claim expenses.



“We should take the bureaucracy out of these processes so you can just go direct to somebody, make it quick and easier to get a response to victims.”

Project worker, Making WAVES project, Breckfield 2008

Mitigating the risk and impact of intimidation

The identification of risk is not a one-off activity. It is important that all criminal justice agencies have measures in place to monitor risk: a witness who does not appear to be at risk during an initial needs assessment may face a greater risk at a later stage. It is, therefore, important to monitor risk regularly and to share assessment findings with other relevant agencies so

that you can make a joint effort to mitigate the risk or impact of intimidation.

Tips for mitigating risk and impact

Reassurance measures
You should consider the need for reassurance measures to support the witness.

For example, in appropriate cases, the police, social landlords and the fire service can provide:

- additional beat patrols in the area;
- CCTV cameras in the home;
- panic alarms;
- mobile phones;

- additional window and door locks;
- smoke and fire alarms; and
- fireproof letterboxes.

Discuss with the witness whether they would like regular home visits from their uniformed local neighbourhood police officer, community support officer or neighbourhood warden, or whether they would prefer to meet up with them elsewhere for security reasons.

Ensuring a witness's safety

Make sure the witness is aware of how they can mitigate the risk of intimidation and how they should deal with any incidents. Share the following advice with them.

- Intimidated witnesses should gather evidence by keeping a record of each incident, when it happened and who the offender was.
- They should include as much detail as possible, including what the intimidator was wearing, their tone of voice, details of their car and any other information which could help identify them.
- It is important for intimidated witnesses to tell people around them, especially their friends and family, what is happening and ask them to also record any useful information.
- They should ensure that people do not give out information about their whereabouts or personal details such as phone numbers.
- They should record conversations and telephone calls whenever possible.
- It is important to keep any letters, emails and text messages which might be useful as evidence.
- If they feel in danger and/or are being threatened, they should call 999 immediately.



“...afterwards when she saw me in work she said she was watching the house and even described exactly what I did the day before. You know, it really made me think what would happen or what she’d do when I’m not there and the kids are playing in the front garden.”

Interviewee 10 for Knowsley and Wirral Intimidated Witness Project: Analysis of Service Provision, JMU, July 2007

Legal measures for tackling witness intimidation

Witness intimidation offences

Remember that witness intimidation is an offence.

People can be prosecuted with the offence of witness intimidation and sentenced separately from the original offence – regardless of the outcome of the original offence.

Witness intimidation offences are contained in s.51 of the Criminal Justice and Public Order Act 1994 (in relation to criminal proceedings) and s.39 of the Criminal Justice and Police Act 2001 (in relation to civil proceedings).

These provisions cover intimidation of anyone who “is assisting in the investigation of an offence or is a witness

or potential witness or juror or potential juror in proceedings for an offence” and intimidation of anyone who “is or may be a witness in any relevant proceedings” respectively.

They allow reporting of intimidation to take place at any time up to one year after the conclusion of the court proceedings.

Offences of harassment

There is other legislation to address some forms of intimidation, such as offences in the Protection from Harassment Act 1997, which include causing harassment and putting people in fear of violence. For example, stalking and threats to cause criminal damage can be interpreted as intimidation.

Often, isolated acts of harassment will not be criminal offences; it is the

totality of the behaviour that counts as a criminal act. Encourage the witness to record and report all incidents of harassment.

The case study below demonstrates the kind of behaviour which should be recorded.

There are many other ways people harass and/or intimidate (for example threatening letters, emails and phone calls). Where possible, agencies should share any previous information or community intelligence about the offender – especially if the person has behaved in this way before. Once the principle of stalking/harassment has been established, the police can take action against the perpetrator/s, for example, by issuing a warning. This can stop the situation from becoming more serious.

Restraining orders

An important aspect of the Protection from Harassment Act is the power of the courts to impose a Restraining Order. This can prohibit the accused (including any agents) from contacting the witness and other named persons, such as friends and relatives, directly or indirectly in any way whatsoever.

Prohibition can also be imposed on retaining, recording or researching by any means a person's private, confidential or personal facts or on a change of address without notifying the court.

Bail

In appropriate cases, a police force can also apply to the court for bail conditions for the offender to be remanded in custody (if the offender

Case study

Sheila is a 32-year-old divorcee who works as a barmaid in a local pub. She has given police information regarding a crime she witnessed and has identified the offender. The brother and a friend of the offender have begun to visit the pub every night. They sit at a table facing the bar and stare at her all evening. Sheila is becoming frightened by this behaviour and is contemplating not attending court.

is the intimidator), or for the grant of an injunction or Anti-Social Behaviour Order against the intimidator.

The police should inform the prosecution if the witness has concerns about the grant of bail or if the defendant has a history of witness intimidation. The charging prosecutor will then consider what additional needs the witness has at the time the defendant is charged and throughout the period up to trial.

Relocation

Where intimidation is considered very serious, the witness may need to be moved to another part of the borough. If the witness lives in social housing, relocation

arrangements can be made through the local housing authority.

Under the Housing Act 1996, local authorities have a duty to investigate cases which might lead to an individual being threatened with homelessness. Seriously intimidated witnesses are likely to be considered homeless, either because it is not reasonable or safe for them to remain in their current home (s.184) or because they are suffering domestic violence (s.177).

In life threatening cases, the police should be informed at once and they will procure assistance and advice from the National Witness Mobility Service.

The National Witness Mobility Service

The purpose of the National Witness Mobility Service (NWMS) is to streamline the process for re-housing witnesses in social housing who are suffering life threatening intimidation. NWMS only deals with cases where witnesses are relocating outside their local authority area; relocations in-borough are a matter for the local housing authority concerned. The Service operates covertly and has no direct contact with witnesses. All referrals are made via the police or social landlords.

Top tip

Remember, intimidating actions are not criminal offences in themselves – it is the totality of the behaviour which constitutes an offence.



“...you go up the stairs and all the courts are there and the witness protection room is just right down the bottom end. To get to the court you have to walk right the way through the waiting room and take all sorts of abuse off all their [perpetrator’s] mates, before you get into court.”

Interviewee 3 for Knowsley and Wirral Intimidated Witness Project: Analysis of Service Provision, JMU, July 2007

Going to court

Special Measures

Where an intimidated witness is required to give evidence in court, the Youth Justice and Criminal Evidence Act 1999 provides ‘Special Measures’ to help them. Independent research by the Home Office found that: “one-third of vulnerable and intimidated witnesses would not have been willing or able to give evidence without Special Measures.”³

Children under 17 are automatically eligible. Witnesses whose evidence is likely to be diminished by fear and distress due to the process of giving evidence may also be eligible.

You should consider whether the measures below might help a witness and suggest that they discuss options with the CPS.⁴ For advice on individual cases, talk to

the police or the CPS at the earliest possible stage in the criminal justice process.

Live links

Live links enable the witness to give evidence in a trial from outside the courtroom, via a televised link. The witness is accommodated either within another room in the court building or in a suitable location outside

³Hamlyn, B, Phelps, A, Turtle, J and Sattar, G, *Are special measures working? Evidence from surveys of vulnerable and intimidated witnesses*. London: Home Office Research Study No. 283, June 2004.

⁴Further guidance is available in *Achieving Best Evidence* at <http://frontline.cjsonline.gov.uk/guidance/victims-and-witnesses>. Hard copies are available from Prolog (contact Holly.Pooley@prolog.uk.com).

Top tip

Witnesses are much more likely to turn up for court if they have had a pre-trial visit. The Witness Service advises that arranging a court visit on the same day of the week, the week before the hearing is due to take place, puts the witness at ease and helps them to become familiar with the court staff.

the court but which has been approved by the court, such as a police station or NSPCC suite (this is known as a 'remote' live link). Remote live links are particularly helpful in cases where intimidated witnesses have been relocated for their own safety and do not wish to return to their home area.

Screens

Screens are available to some witnesses to shield them from the defendant.

Evidence given in private

When a witness is given the right to give evidence in private, members of the public and the press (with the exception of one named person as a press representative) are excluded from the court.

The Witness Service

Where Special Measures are granted make sure that the witness has the opportunity to visit court and see a session in progress. The Witness Service can arrange this. Volunteers from the Service can provide pre-trial court visits and can accompany the witness on the day of trial.

Attendance at court is a daunting experience for any witness, especially those who fear coming face to face with the defendant and his/her family and friends. It is important to anticipate the needs of intimidated witnesses to ensure that they are properly supported at court and feel as comfortable as possible. Ensure that they know what to expect. For example, explain to them

that they may have to wait; or that their evidence may be challenged quite robustly by the defence.

Separate seating in court, away from the defendant's family, should be arranged. Wherever possible, separate entrances and waiting rooms should be provided and arrangements made to ensure that the witness does not encounter the defendant or his associates in shared areas such as the restaurant or toilets.

This can be arranged through Witness Care Units. Please note that any separate or special entrance for intimidated witnesses should be kept totally anonymous to enhance security.

“Visible action by local support and criminal justice agencies is important in building community confidence and encouraging reporting of crime. The multi-agency approach was also crucial in ensuring witnesses were kept informed and could be offered a range of support to suit their needs.”

JMU Evaluation Report 2008

Supporting intimidated witnesses together: Getting the most from joint agency working

Tackling intimidation is not solely the responsibility of the police. Recent research commissioned by the Office for Criminal Justice Reform suggests that intimidated witnesses do not expect the police to give them emotional support and reassurance but do expect the police to refer them to the right agencies offering such support.

The police and all other CJS agencies should ensure that information on what they can do to support intimidated witnesses is available through the various means of publicity mentioned before but also that there is regular contact and sharing of information with one another on working practices that will enhance the service offered to witnesses.

This includes keeping in regular contact with the witness but also with other agencies to ensure that the witness receives all the information they need to make their experience through the criminal justice system a less traumatic experience.

City Safe groups and Safer Neighbourhood Working Partnerships are working well across various regions.

It is absolutely vital that these forums do not become ‘talking shops’ but maintain a high level of activity in their area and can be seen as useful and trustworthy.

The more agencies work together and share information, the better their service becomes. This is not just to their advantage but also the witness’s and makes for a more positive experience for all concerned.

A good way to ensure that agencies work effectively together and share information is to encourage the witness to sign a consent form which can be copied to all relevant agencies. An example is shown on this page.

Being consistent

Try to make sure you’re all using the same language and framework when discussing intimidated witnesses. For example, what does ‘high risk’ mean? What is the standard response to high-risk individuals? Is it appropriate and possible in each case? The scorecard could prove helpful here.

Seek out opportunities for multiple agencies to work together in the community. For example, community forums offer voluntary organisations, Victim

Example of a Joint Agency Consent Form

In order that [please insert relevant information i.e. Victim Support/Witness Service and/or other agency] may further help you with your case, it may be necessary to share information with our partners in the Joint Agency Group (JAG).

This Group is made up of a number of organisations both statutory and voluntary (such as [insert names of agencies]), who have signed up to a policy document and protocol, which is governed by the Data Protection Act.

This means that all the information you give us will be treated in accordance with this Act and protocol and in the strictest confidence between all Group members.

If you would like a copy of this policy/protocol document, please ask your case worker.

Having read and understood the above, I hereby give permission for information relating to my case to be passed to the Joint Agency Group for discussion and possible prioritisation.

Signed:.....

Name:..... (block capitals)

Date:.....

Top tip

Always ensure that the witness has access to the agencies that can help them. Victim Support and the Witness Service are essential.

Support and community safety officers a good opportunity to tell the public about the support they can offer intimidated witnesses. The Breckfield Project introduced multi-agency walkabouts on a regular basis in areas with a high incidence of intimidation. This helped promote community confidence in local agencies.

Share information and keep the witness informed of developments regularly. If the case goes to court, continue to support the witness after the sentencing and ensure they are informed of any changes to the length of the sentence.

Case study A: **Creative solutions** to violent anti-social behaviour



Situation

Several residents of a local housing estate were becoming victims of intimidation, verbal and physical threats. Incidents of anti-social behaviour were also becoming more frequent.

These incidents were instigated by a number of local youths who were operating an illegal car park on days when the local football team were playing a home match.

The illegal car park meant that cars were parked randomly in the area. As a result, residents were blocked into their homes, leaving many of them unable to move for hours on end during home match days.

When residents approached the youths who were running the car park, they received threats against them, their families and property. One resident

who stood up to the youths was attacked and physically assaulted. Several other residents witnessed the incident. The gang of youths were connected to a well-known family in the area. Many of the residents were fearful of upsetting them.

Agencies involved

- Local neighbourhood police
- Local councillor
- Registered Social Landlord
- Residents' organisations
- Local community centre

What the agencies did

- The local community centre gave the police a comprehensive report of the residents' complaints gathered from residents themselves and tenant groups.
- They also arranged a meeting with the local authority and housing provider to establish ownership of the vacant land that was being used for the illegal car park.
- Working with all the local agencies, an action meeting was planned to target the wider issues of gangs on the estate with the aim of forming part of the police action.
- The neighbourhood police team increased high-visibility patrols and made an effort to develop community confidence on the estate.
- The local community centre and all agencies involved in the action planned a Community Safety Day to strengthen the residents' resolve and confidence.

Result

Traffic enforcement teams are now present on the estate during every match day. They vigorously enforce the legitimate parking scheme by issuing valid parking tickets and towing away vehicles that break the rules.

The council has now released finance for hard landscaping of the vacant land to prevent the illegal parking from continuing.

A multi-agency walkabout now takes place monthly on the estate. This enables residents to raise issues of concern. It also raises confidence levels and reduces the fear of crime among the community.

“Ideally you have a co-ordinator in every area across Merseyside.”

Resident, Breckfield Project

Case study B: **Anti-social behaviour – the long-term solution**



Situation

Two elderly women living on a fairly rough estate were being intimidated by a gang of youths, who taunted them verbally, kicked their doors, threw things into their garden and generally made as much noise as possible outside their home until late at night. One of the women spoke to the gang

and asked them to stop their anti-social behaviour, but they subsequently threatened to burn the house down and kill her son. This behaviour continued for nearly 18 months and nothing was done to help the women. Eventually they contacted the local housing Anti-social Behaviour Unit and asked for help.

Agencies involved

- Anti-social Behaviour Unit
- Police
- City Safe team
- Local landlord
- Target Hardening group
- Tenants' association
- Courts

What the agencies did

- The Anti-social Behaviour Unit took statements and offered the women support. They took details of the incidents and gave the women diaries to record any further events. Victim Support and the Witness Service can also offer this support.
- The police were informed and agreed to add further patrols to their area. They also gathered evidence of the gang's behaviour from other residents.
- The Target Hardening group fitted reinforced doors and new locks on all the house's doors and windows. They added lighting to the front and back gardens and fitted smoke alarms, panic alarms and a fireproof letterbox. They also gave the women mobile phones with emergency numbers programmed in.
- The local Witness Support Group also visited the women and gave them support.
- The police and local neighbourhood community centre also used diversionary tactics to break up the gang and reduce the threat.

Result

The behaviour stopped, and the women have been reassured that if it starts again there will be immediate consequences for the youths. The police and neighbourhood community centre now work with the youths to gain their interest in other activities such as fishing, cycling and IT. There have been no further incidents to date.

Case study C: Standing up to violent crime



Situation

In an area known to the police for its high level of crime and drug-related problems such as drug dealing and shooting incidents, the perception of the local community is that all crime and drug dealing on this estate is associated with a family who are known criminals.

A resident has witnessed a crime that was gang related and involved members of this family. The resident is in fear of reporting the incident to the police because she has a very real fear for the safety of herself and her family.

The local community feels that this gang and family members have access to information about who reports incidents to the police, and this has created a 'fear breeds fear' culture. No one wants to speak up against them (people are reluctant to be seen as 'a grass') for fear of intimidation and/or reprisals.

Agencies involved

- Registered Social Landlord
- City council's Neighbourhood Team
- Local community centre
- Local councillor
- Fire brigade
- Victim Support
- Witness Service
- Witness Care Unit

What the agencies did

- Local community centre staff heard about the situation from other residents and organised a safe and secure environment for people to talk in the strictest confidence about what they had witnessed (elsewhere this can be arranged by the local Victim Support and/or the local community centre).
- They ensured that the witness knew and understood that no details relating to her identity would be passed on to anyone without first seeking her approval. If this information is initially given to the police, they must ensure that the witness is given every support and protection from any kind of stalking, harassment and other intimidation methods. (This is a key stage for establishing and building trust and confidence for the witness and is crucial to their continued co-operation with the CJS.)
- The Registered Social Landlord established the level of intimidation and the actions necessary to deal with it, including assessing whether the perpetrator was in breach of his tenancy agreement.

Result

All these agencies worked alongside the witness to support her through the process. The offender, having pleaded guilty to the charges, is on remand awaiting trial.

A multi-agency walkabout now takes place monthly on this estate. This enables residents to raise issues that concern them and has reduced their fear of crime. The regular presence of agency officers also deters incidents of graffiti and fly tipping, which enhances the living standards of the residents. All of this has raised the confidence of the residents with the local police and agencies.

The Registered Social Landlord is currently holding regular residents' surgeries in the local community centre.

“Yes, we just need someone to listen to us, to respond back to us and just let us know something is being done.”

Resident's comment

For more information about anything you've read in this guide, visit www.cjsonline.gov.uk or contact Julie Clouder at julieA.clouder@cjs.gsi.gov.uk



Criminal Justice System: working together for the public