



HM Crown Prosecution
Service Inspectorate

Communicating with victims

January 2016

Dear <name>

Communicating with victims

January 2016



Dear <name>

If you ask us, we can provide this report in Braille, large print or in languages other than English.

For information or for more copies of this report, please contact our publications team on 020 7210 1197, or go to our website:

www.justiceinspectors.gov.uk/hmcpsi

1 Contents

1	Headlines	1
	Key findings	1
	Conclusions	2
	Recommendations	3
2	Context	5
	Example of good practice	7
3	Victim Liaison Units	9
4	Victim Communication and Liaison Scheme	11
	Timeliness	14
	Witness Care Units	15
5	The Victims’ Right to Review Scheme	17
	Appeals and Review Unit	20
6	Complaints	23
7	Speaking to victims at court	27
	Keeping the victim informed	31
	Example of good practice	31
	Annexes	33
A	Methodology	33
B	File reading data	35
C	The victim’s journey through the criminal justice system	37
D	Glossary	39



1 Headlines

1.1 The focus of this inspection was on the quality and timeliness of Crown Prosecution Service (CPS) communication with victims. There is a drive across the criminal justice system (CJS) to improve the quality of service given to victims of crime.¹ The Victims' Code maps out the victim's journey through the CJS and lays out guidelines for the minimum service the victim should expect from the different agencies they will meet along their journey.

1.2 The Director of Public Prosecutions has committed the CPS to improving the quality of service it provides to victims and witnesses. The CPS conducted a Victim and Witness Satisfaction Survey, set up Victim Liaison Units (VLUs), introduced the Victim Communication and Liaison Scheme (VCL) and the Victims' Right to Review Scheme (VRR) and has drafted guidance for prosecutors on speaking to victims at court.

Key findings

1.3 Once a case has been finalised, the VLUs manage all communications with victims under VCL; VRR and any complaints. It is anticipated that the VLUs will provide a more centralised service. To that end, some VLUs also manage correspondence with bereaved families and MPs' letters.

1.4 The concept is sound and we found that there are systems in place to record all communications. Unfortunately none of the VLUs visited had a sufficient number of Victim Liaison Officers (VLOs) and consequently there was no built in resilience to cover annual leave or sickness, which impacts on the timeliness

of correspondence. A few Areas have staff deployed elsewhere who step in to assist the VLU as required but because they are not doing the job on a daily basis, the quality and timeliness of communications are at further risk.

1.5 Further, we found that the quality of correspondence was inconsistent. Template paragraphs are used in VCL correspondence. These may make the job of putting letters together quicker and easier but that is at a cost. Too many letters lack empathy because of their use. Even though there are template paragraphs 19% of letters in our file sample still failed to inform the victim of their right to seek a review of the decision not to prosecute and in 95.7% of letters there was no evidence that victims of domestic abuse had been provided with details of sources of support.

1.6 Prosecutors are required to draft a short paragraph explaining the decision to discontinue a case, or substantially alter charges against a defendant, and this paragraph is emailed to the VLU to be inserted into the letter to the victim. The quality of the explanations provided in these paragraphs was variable and often inadequate. The reason for the decision was clearly explained in only 47.9% of our file sample and partially explained in 36.5% of cases. Prosecutors do not always send these paragraphs promptly to the VLU which results in VLOs missing the one day or five day time limit for sending these letters. Communications with victims was not timely in 43.4% of cases in our file sample, however we recognise that more recent CPS data suggests that timeliness is improving.

¹ *Meeting the needs of victims in the criminal justice system: A consolidated report by the criminal justice inspectorates; CJI; December 2015.*

1.7 The standard of responses to victims' requests for VRR, and to complaints, is also variable. A number of responses lacked adequate explanation and empathy, however we found that letters drafted by the Appeals and Review Unit in response to VRR were well written. Timeliness of response is an issue in these communications as well.

1.8 Face to face communication with victims at court is inconsistent and this has been recognised by the CPS and is reflected in their new guidance on Speaking to Witnesses at Court. CPS staff cuts and courts listing more than one trial in the same courtroom have put a strain on the ability of prosecutors to meet victims and witnesses before they are called to give evidence.

1.9 The ability of prosecutors to engage effectively with victims and witnesses has been adversely affected by the withdrawal of CPS paralegal officers from the Crown Court. Previously, paralegal officers assisted the prosecutors at court by carrying out much of the CPS and witness liaison work.

1.10 Prosecutor compliance with keeping victims informed on the progression of the case during the day's court hearing is patchy. Typically, victims and witnesses are required to wait outside the courtroom, but within the courthouse, before they are called to give their evidence. It falls to the Witness Service and the police officer in the case to routinely inform

victims of any delays in proceedings. If there were more CPS paralegal officers in court they could assist in keeping victims informed during the day as, unlike the prosecutor, they would be able to step out of court mid-proceedings. We also found that contrary to requirements and the CPS's stated obligations, in a majority of cases, there is no evidence that victims are consulted before decisions are made to discontinue a case, or substantially alter charges against a defendant (71.1%).

1.11 Prosecutors rarely speak to victims after the victim has given their evidence, but this is difficult to do when there may be other witnesses about to give evidence. Further, the Witness Service reports that most victims leave the courthouse after giving evidence.

Conclusions

1.12 The CPS faces a huge challenge in trying to improve the quality of its service to victims. Areas are struggling to balance the management of performance with the loss of staff and this resourcing shortage is having an adverse impact on performance across the Service. The CPS needs to be realistic about what is achievable given the ongoing financial constraints. It must work more closely with criminal justice partners, not just at a strategic level but also operationally, to improve the victim's experience of the CJS.

Recommendations

1 The CPS should ensure that the quality assurance checks specific to the Victim Liaison Unit are effective in ensuring greater consistency in the quality and timeliness of letters sent to victims (paragraph 3.9).

2 The CPS and the police should agree their respective roles in communicating the outcome of cases to victims and witnesses, in order to avoid duplication of correspondence and to reduce the risk of communicating inaccurate or inconsistent information (paragraph 4.24).

3 The CPS should implement an effective process which ensures that Victim Liaison Unit staff are alerted promptly of any case where the charge against a defendant has been substantially altered thereby triggering a requirement for a Victim Communication and Liaison Scheme letter (paragraph 4.24).



2 Context

2.1 The objective of this inspection was to evaluate how effectively the CPS delivers its commitments to communicate with victims, including compliance with the Victim Focus Scheme,² the revised Victims' Code³ and the Victims' Right to Review Scheme.⁴ We inspected the relevant systems and processes that underpin the CPS victims' strategy and support the delivery of service to victims. We visited six CPS Areas over a period of three weeks including two of the pilot sites for the VLUs. The methodology is set out at annex A.

2.2 We conducted interviews with CPS staff, and criminal justice partners including managers of Witness Care Units (WCUs), heads of police Criminal Justice Units, Citizens Advice, Victim Support, managers of the Witness Service, local Police and Crime Commissioners and the Victims' Commissioner.⁵ The role of the WCUs in relation to victims and witnesses is discussed in further detail in chapter 4.

2.3 We also inspected 162 finalised files, comprising complaints, VRR and VCL cases. This sample gives a snap shot of current performance. We assessed the files for compliance with the Victims' Code; consideration of the victim's views before discontinuance or substantial alteration of charge; timeliness; quality of letters' content; and whether, in appropriate cases, a meeting was offered to the victim. The key findings are discussed in detail at the relevant sections of the report and the file reading data is at annex B.

2.4 The quality of service provided to victims and witnesses is at the heart of the CJS. On taking office in November 2013, the current Director of Public Prosecutions (DPP) emphasised her commitment to improve the service that the CPS provides to victims.

2.5 The majority of victims are likely to find the process and the experience of being involved in the CJS very daunting because it is unknown territory for most of them. It is evident from our file sample and the findings from our Annual Casework Examination Programme (ACEP) that victim engagement is a cause for concern. There is a real risk that if victims do not feel supported they are less likely to attend court to give their evidence, thereby putting trials at risk. If a victim feels that they are being kept informed and supported they are more likely to remain engaged in the process, which in itself could lead to a lower rate of non-attendance and better rate of conviction.⁶

2.6 The victim's journey through the CJS begins once they report a crime to the police. The length of that journey depends on whether or not the case is charged and, if charged, how far through the system the case proceeds. The Victims' Code maps out the victim's journey through the CJS (shown at annex C). It sets out the minimum standards that victims should expect from the criminal justice agencies they will come into contact with on their journey through the system and makes it clear that victims are entitled to access to appropriate support services and information.

² *Victim Focus Scheme*; CPS; October 2007.

³ *Code of Practice for Victims of Crime [Victims' Code]*; Ministry of Justice; October 2013.

⁴ *Victims' Right to Review*; CPS; July 2014.

⁵ The Victims' Commissioner for England and Wales is Baroness Newlove. <http://victimscommissioner.org.uk/>

⁶ We discuss witness attendance rates and the use of witness summons in more detail in our audit report which will be published shortly after this one.

2.7 In accordance with the Victims' Code, a victim in a case being handled by the CPS can expect the following:

- where the CPS has advised the police not to instigate a prosecution against a suspect, or has decided that the case against a defendant, already charged, should be discontinued, the victim is entitled to be notified of the reasons why this decision was made, how they can access further information about the decision and how they can seek a review of the decision if they are dissatisfied with it⁷
- where circumstances permit, the victim should be able to meet the CPS prosecutor or representative and ask him or her questions about the court process. The prosecutor will indicate, where possible, how long the victim may have to wait in the court building before giving evidence⁸
- wherever possible, the victim should receive an explanation from the CPS prosecutor or representative if there is a delay in the court proceedings on the day and how long the wait is likely to be.⁹

⁷ Chapter 2, paragraph 2.10 and chapter 3, paragraph 1.17.

⁸ Chapter 2, paragraph 3.1 second bullet point and chapter 3, paragraph 1.24 first bullet point.

⁹ Chapter 2, paragraph 3.1 third bullet point.

2.8 The CPS faces a number of challenges in meeting these obligations. It is trying to do more with less. It is under increasing pressure to improve the quality of its service whilst still trying to meet the financial constraints placed upon it and manage resultant reductions in staff numbers. The CPS has reduced its staff by 30% (2,467 individuals) over the last five years, and although general statistics show a reduction in the reporting of crime, the CPS is managing an increase in counter-terrorism cases, an upsurge in historic child sexual abuse cases and an even higher number of cases involving violence against women and girls. These are all cases which are by their nature complex, sensitive and often high profile. The victims in these types of cases are also entitled to an enhanced service which places a yet greater demand on the CPS in cases which are already resource intensive.

2.9 To improve compliance with the Victims' Code, the CPS has launched a number of initiatives designed to improve the quality of service it provides to victims of crime:

- the Victim Liaison Units
- the Victim Communication and Liaison Scheme which has replaced the Direct Communication with Victims Scheme (DCV)
- the Victims' Right to Review Scheme
- an update on complaints
- guidance on speaking with witnesses at court.

2.10 The focus of this inspection was to assess the channels, quality and timeliness of CPS communications with victims under the Victims' Code and the effectiveness of that communication. We recognise that some of these initiatives had been launched only a short time before this inspection and the new guidance on speaking with witnesses at court was only finalised after our fieldwork. Where appropriate, we have therefore looked at the capability of these structures and processes to produce sustainable improvements.

2.11 Financial constraints require the CPS to find a smarter way of delivering its service to victims and witnesses, and there are substantial benefits to be gained from better communication and more effective joint working with CJS partners to ensure a more efficient service. The main challenge is the continuing financial constraint the CPS and CJS partners find themselves facing and how their reducing staffing resources are deployed.

2.12 The scope for criminal justice agencies to make substantial improvements at a local level has been wider since 1 April 2015 when the Ministry of Justice passed responsibility for the commissioning of support services for victims of crime to Police and Crime Commissioners (PCCs). The rationale for doing this was that the PCCs, with their local knowledge, could tailor services to meet the greatest needs of victims in their communities. We found that CPS interaction with the PCCs in their respective Areas varied considerably from some having no relationship, to those who are working closely with other agencies under the PCCs to bring about more joined-up working.

Example of good practice

An example of effective partnership working is CPS Wessex where the Area has a dedicated specialist prosecutor who is proactively building strategic and operational relationships with the Police and Crime Commissioner and local CJS partners to improve the victim experience.

Responses from CJS partners to our survey when asked how the CPS can improve its service to victims

"Victims should be at the heart of the process and not, as it can sometimes seem, viewed as just another exhibit needed to prove the case."

"Improved communication with victims and improved co-ordination with other agencies to ensure processes are efficient."

"Provide a victims' lawyer, improve communication, improve empathy, improve staffing levels (Yes I know how hard that is, but it still needs saying)."



3 Victim Liaison Units

3.1 In 2013-14 the CPS restructured the way in which it handles communications with victims after a case has been finalised. It set up Victim Liaison Units - a dedicated point of contact for victims who want more information about the decisions reached. The VLU also informs victims of their right to seek a review of a CPS decision, to make a complaint or provide feedback. This now includes the new Victim Communication and Liaison Scheme,¹⁰ the Victims' Right to Review and any complaints.¹¹ In some CPS Areas MPs' letters and communication with bereaved families are also handled by the VLUs. The CPS vision is to have fewer levels of contact and there is an expectation that VLUs should deliver savings because of the efficiency of having a small number of dedicated staff sending all the letters, rather than staff trying to juggle this task with other commitments.

3.2 Most victim related queries go through the VLUs which is putting pressure on resources. CPS Headquarters assessed each Area and proposed staffing levels for its VLUs based on estimated victim contact. Only a few of the Areas we visited have been able to reach the recommended staffing levels. Areas are responsible for the financing of their VLUs and resources in the smaller ones are proving to be a challenge.

3.3 The VLUs carry out the communication with victims in relation to key decisions made by prosecutors. However, prosecutors maintain responsibility for decision-making and accountability for their cases going through the VLUs. Prosecutors are expected to provide good quality input to allow the Victim Liaison Officers to communicate effectively with victims. We found from our file sample and interviews that there are issues with the quality and timeliness of prosecutors' input to the units.

3.4 Most VLU staff spoken to in this inspection felt that they had been adequately trained for the role and that they were just able to cope with the workloads. However, the majority reported that there was no resilience built into the system for sickness and leave periods. A few Areas are attempting to resolve this by training more staff to be able to provide back-up support, but this raises issues of consistency in quality and timeliness because of their lack of day to day exposure to the work. In order to build in resilience, some Areas where there are still CPS staff working alongside police personnel in Witness Care Units are bringing them back into the operational side of the business, so that they can continue their assigned WCU tasks and at the same time also provide support to CPS colleagues.

3.5 VLOs also handle a number of telephone calls from victims and find the personal interaction with victims to be a very rewarding and satisfying part of their job.

¹⁰ Communications which inform victims of CPS decisions to discontinue a case or to substantially alter the charges.

¹¹ Complaints 'relating to the service standards and conduct of CPS staff' are considered by the Independent Assessor of Complaints (IAC) discussed later in this report.

3.6 All communications with victims are recorded on the KIM IT system which provides the CPS, locally and nationally, with a valuable tool to monitor, capture and analyse data. It also provides a 'readable repository' for lessons learnt to be recorded. However our file examination indicated that where learning had been identified, it was not recorded on KIM, therefore it is difficult to see how lessons are being learnt and disseminated.

3.7 The CPS sees the VLUs as providing a simpler way of communicating with victims, being more empathetic and encouraging victims, should they need it, to seek more information. The concept is sound but the operation is not proving particularly successful. VLU template letters are available on KIM which are designed to assist operational staff to draft letters, but we found that their prescriptive use and the resulting quality of these letters is an issue. Whilst the use of templates may help ensure consistency, it also means that the letters almost invariably lack empathy and read as impersonal. They fail to engage the victim or make the victim feel that their case was considered with any particular attention. Ideally, a template letter should be a prompt for what needs to be included, not something which is used prescriptively. No two victims are the same and should not be treated as such and the challenge for the CPS is how to make communications with victims more personal, which is more time-consuming, when they continue to face cuts in resources.

3.8 The CPS carried out an evaluation of each VLU between November 2014 and January 2015. Our findings, as set in this report, are consistent with the findings from those evaluations and there is evidence that the Areas are working to action the recommendations arising from those evaluations. Managers in CPS Areas conduct dip-sampling of VLU letters as part of Individual Quality Assurance (IQA) which is discussed later in this report.

3.9 The CPS should do more to raise the awareness of the work of VLUs amongst criminal justice partners and stakeholders. The units are a small dedicated team which is the CPS point of contact for victims. Most of the criminal justice partners we spoke to were aware of the units but knew nothing or very little about their role. Familiarising them with the work of the VLUs would not only inform them of the CPS's work, but would also equip them with the knowledge to better assist victims by referring them to the units if they raise any queries or issues about decision-making in their case.

Recommendation

The CPS should ensure that the quality assurance checks specific to the Victim Liaison Unit are effective in ensuring greater consistency in the quality and timeliness of letters sent to victims.

4 Victim Communication and Liaison Scheme

4.1 The victim is entitled to be informed by the CPS of any decision it makes not to prosecute and the reasons for that decision. Previously, the CPS fulfilled this obligation under the Direct Communication with Victims (DCV) Scheme. The VCL Scheme has now replaced this, in order to take account of the revised Victims' Code.

4.2 The VCL Scheme operates where the CPS decision is:

- to discontinue a charge and proceed on another
- to substantially alter a charge
- to discontinue all proceedings
- to offer no evidence in all proceedings¹²
- not to prosecute (but only where they do not hold a charging consultation).¹³

4.3 The scheme is intended to prompt more direct contact with victims, with particular focus on victims who have been identified as being in greatest need and entitled to an enhanced service under the Victims' Code.

4.4 The following categories of victim are entitled to an enhanced service under the revised Victims' Code:

- victims of the most serious crime – domestic violence; hate crime; terrorism; sexual offences; human trafficking; attempted murder; kidnap; false imprisonment; arson with intent to endanger life; or wounding or causing grievous bodily harm with intent (s.18);¹⁴ and close relatives bereaved by criminal conduct

- victims who are persistently targeted – those who are targeted repeatedly over a period of time, those who are deliberately targeted or are victims of a sustained campaign of harassment or stalking

- vulnerable or intimidated victims - those under 18 years of age at the time of the offence; those whose evidence is likely to be affected because they suffer from a mental disorder within the meaning of the Mental Health Act 1983; those who may have a significant impairment of intelligence and social functioning; and those who have a physical disability or are suffering from a physical disorder. A victim is considered intimidated if the quality of their evidence will be affected because of fear or distress about testifying in court.

4.5 In order to simplify the system at the start of the process, the CPS has decided to give victims control over the amount of information they receive. The CPS initially provides the victim with minimal information about the decision reached. In the majority of cases the VCL letters are very formulaic and attempt to explain the prosecutor's decision in a paragraph of less than 20 words. The explanation paragraph is emailed from the prosecutor to the VLU and the Victim Liaison Officer inserts it into the template letter. From our examination of VCL letters the self-imposed 20 word limit was insufficient to provide the victim with an adequate explanation of the prosecutor's decision. However, the letters do invite the victim to contact the VLU if they require further information.

¹² *Victims' Code*, paragraph 2.9.

¹³ Where the police seek advice from the CPS on whether there is sufficient evidence to charge a suspect.

¹⁴ Section 18, *Offences Against the Person Act 1861*.

4.6 The CPS view is that the template letters both speed up the process and ensure greater consistency. The VLOs are not involved in the case and therefore do not have the necessary knowledge of the circumstances to draft these letters, hence the template paragraphs. Prosecutors no longer have to send letters directly to the victim explaining their decision. They only have to draft a short paragraph and send that to the VLU, thereby saving prosecutor time. This time saving process comes at a cost as VCL letters appear not personal to the victim and lack empathy.

4.7 The VLO relies on either the prosecutor at court, or the lawyer reviewing the case in the office, to provide them with the words to be inserted into the letter and to do so in a timely fashion. The lawyer should also specify whether the victim is entitled to the letter within one day or five days. This requires prosecutors to record sufficient detail on the hearing record sheet (HRS)¹⁵ and on the case management system (CMS) review screen before they send it to the VLU.

4.8 Insufficient information from the prosecutor to the VLO impacts on quality and timeliness, and not all lawyers were complying with this requirement at the time of our inspection. All the VLOs we spoke to told us that they refer the case back to the relevant lawyer and their line manager where they do not have sufficient information to insert into the letter. VLOs routinely check CMS each morning for cases finalised the day before which had

had unsuccessful outcomes¹⁶ (and which would therefore require letters). They have adopted this practice because of concerns about the accuracy and timeliness of information received from prosecutors. While this enables them to chase the prosecutors for any outstanding VCL paragraphs, it is in itself time-consuming. The quality of information provided by prosecutors was picked up in the CPS evaluation and the VLOs reported that there has been improvement. All the VLOs we spoke to reported that they feel able to raise this and any other issues with prosecutors' line managers and are confident that those issues are addressed. In turn, line managers confirmed that they address compliance issues with their prosecutors through team meetings and face to face when more appropriate. If it remains an issue it is dealt with as a performance issue under IQA.

4.9 During our fieldwork we found that there was no system in place to capture those cases where there was a plea to a substantially altered charge, especially as not all prosecutors are properly recording these on the HRS or CMS. This needs to be addressed as it is highly probable that, as a result, a number of victims who were entitled to a VCL letter did not receive one.

¹⁵ The HRS is a CPS electronic record of events at court. If completed correctly it acts as a continual log of court proceedings and court orders.

¹⁶ An unsuccessful outcome is any case which, after being charged, does not result in either a guilty plea or the conviction of the accused.

4.10 If victims are not provided with sufficient information to properly understand the rationale behind a decision they are more likely to seek further information. This requires the lawyer in the case to take time out of their day to re-visit the case in order to provide that further information. Our file examination showed that the explanation was sufficiently clear for discontinuing or substantially altering a charge in less than half of the cases (see table below). The fact that the case is charged in the first place causes the victim to believe that there was sufficient evidence to proceed. If the case is then discontinued without adequate explanation, it increases the likelihood that they would seek a review of the decision.

In one case the victim was aware that a key witness had identified the defendant. The victim was not informed that the witness had subsequently failed to attend court and therefore the case could not be proved. Had the VCL letter explained what had happened at court it is likely that there would not have been a request for a review and the resulting additional work for the CPS prosecutor who had to carry out the review.

The reasons for discontinuing or substantially altering one or more of the charges were clearly explained	
Fully met	47.9%
Partially met	36.5%
Not met	15.6%

4.11 The CPS Victim and Witness Satisfaction Survey (the CPS survey) results published in September 2015 are not much different to the results from our file sample. The CPS survey shows that in cases where the charges have been altered, the quality of explanation provided to victims was clear in 58% of cases and only 47% in those where the prosecution had been discontinued.¹⁷

4.12 The overall quality of VCL letters were of a high standard in only 16.8% of cases in our file sample.

The VCL communication was of a high standard	
Fully met	16.8%
Partially met	64.2%
Not met	19.0%

4.13 It is clear from these findings that the CPS needs to do more to improve the quality of letters being sent to victims.

4.14 Witness Care Officers and the Victims' Commissioner are of the view that the letters are not 'victim friendly' and that they should be reviewed and adapted to each case. The dilemma for the CPS is in striking the right balance between resources and quality.

¹⁷ Page 39, *Victim and Witness Satisfaction Survey*; CPS; September 2015.

4.15 We found that the quality of letters sent to victims entitled to an enhanced service (the more serious and sensitive offences) was better and because of the sensitivities of these cases the letters were usually drafted entirely by the allocated lawyer. The lawyers put more time into providing the victim with an explanation of the decision and, because the lawyer did not slavishly follow the template paragraphs, the letters were more personal to the victim and were more empathetic.

4.16 The Victims' Code requires agencies to support victims to cope and recover from their experience where possible. In response to the CPS survey, just under half of victims were referred to victim support services but a further 13% would have liked to have been. Victims of sensitive crimes and those entitled to an enhanced service were more likely to have been referred to victim support services.

4.17 VCL letters should provide information, where appropriate, to enable the victims to access relevant support services, such as helplines and local services which provide independent advice and support for victims. The findings from our file sample suggest that the relevant information is not contained in the body of the letter, even though there are template paragraphs for inclusion in the letters. We understand that relevant leaflets are sent to victims setting out available support, however these leaflets were not referred to in the letter. Whilst we understand the need to ensure that letters are clear and to the point, we do consider that they would benefit from references to the leaflets enclosed.

Timeliness

4.18 Victims entitled to an enhanced service under the Victims' Code should be notified of any CPS decisions within one working day of the decision being made. All other victims are entitled to receive information about prosecution decisions within five working days of the decision being made. The results of our file sample indicate that timeliness is an issue in both categories. The appropriate communication was timely in only just over half of the relevant cases.

There was timely communication	
Yes	56.6%
No	43.4%

4.19 We found that there were a number of factors affecting timeliness, such as:

- failure of the police to indicate that a case involved vulnerable or intimidated witnesses and thus required a one day response
- failure of some reviewing prosecutors to indicate in their email to VLUs whether the case required a one day or five day response
- some letters were delayed because the discontinuance notification went to the wrong internal CPS email inbox
- failure of prosecutors at court to inform the VLU whether the court outcome required a one or five day letter and as a result the VLOs were unaware which cases needed to be prioritised

- late or inadequate communication by prosecutors at court
- administrative delay in entering details on CMS
- VLU prioritising quality of responses over timeliness of responses
- lack of adequate resources in the VLU; and
- passage of work back and forth between the CPS units that deal with rape and serious sexual offences (RASSO) cases. In these cases the RASSO unit draft the letter and send it to the VLU for quality assurance. It is then sent back to RASSO for despatch to the victim, by hand, by a police officer.¹⁸

4.20 The CPS VLU Assurance Report (October 2014) found that CPS managers are encouraging prosecutors to speak to victims at court and to record on the HRS where the victim does not want a letter. It is clear however from our file sample and from discussions with VLOs that this is rarely being done and, if it is, it is not being recorded on the HRS. We consider it would be prudent to send a VCL letter in any event, even if just to confirm the content of the conversation at court. It is not uncommon for victims to be stressed at court, which may affect their ability to take on information, especially if the issue being discussed is a complicated one.

¹⁸ HMCPSI has recently undertaken a review of CPS RASSO units and will report early in 2016.

Witness Care Units

4.21 Victims and witnesses in most cases receive information on the progress of their case from their local Witness Care Unit. WCUs liaise between the police, CPS and the victims and witnesses. Historically, WCUs were staffed by both CPS and police personnel. That had the advantage of more immediate access to information, including the outcome of cases, as the CPS staff had ready access to the CPS case management system (CMS). However, the majority of the six CPS Areas we visited have withdrawn their staff from the WCUs owing to cuts in their budget and resources. The majority of those WCUs are now staffed by police only.

4.22 CPS relationships with the WCUs are variable. A couple of Areas visited still had CPS staff in one of the local WCUs. One of those two was in the process of removing their staff from the units and bringing them back into the operational side of the business in order to help maximise efficiency and build resilience. The police in that Area were in the process of centralising their WCU staff into one unit for the same reason.

4.23 One of the roles of the WCUs is to inform victims of the outcome of their cases. This means that where a case has been discontinued, or the charges have been substantially altered, the victim receives a letter from the WCU informing them of that outcome. The victim also receives the VCL letter from the CPS which may provide more of an explanation. The expectation is that the CPS provides a copy of the victim's VCL letter to the WCU to ensure consistency of information, but a number of WCU officers spoken to reported that this does not routinely happen.

4.24 Receiving two letters delivering the same message can cause the victim some confusion, especially as a number of them do not understand the difference between the different criminal justice agencies they encounter. Occasionally the victim is sent letters giving two different outcomes to the case, or inconsistent information, because WCUs do not always have access to, or are not copied into, VCL letters. Different messages can understandably cause the victim some distress or confusion and result in lack of confidence in the criminal justice system. Further, given the financial constraints on both agencies, it is wasteful on resources to duplicate work.

Recommendation

The CPS and the police should agree their respective roles in communicating the outcome of cases to victims and witnesses, in order to avoid duplication of correspondence and to reduce the risk of communicating inaccurate or inconsistent information.

Recommendation

The CPS should implement an effective process which ensures that Victim Liaison Unit staff are alerted promptly of any case where the charge against a defendant has been substantially altered thereby triggering a requirement for a Victim Communication and Liaison Scheme letter.

5 The Victims' Right to Review Scheme

5.1 The right of the victim to seek a review of a CPS decision not to prosecute came under judicial scrutiny in the case of *R v Killick*.¹⁹ The Court of Appeal concluded that a victim has the right to seek a review without seeking recourse to judicial review proceedings and that there should be a clear procedure and guidance on how to do so, with time scales. Giving victims a right to review was also one of the recommendations coming out of HMCPSI's follow-up inspection of CPS complaints handling in 2013.²⁰

5.2 In July 2014 the CPS issued interim guidance on the Victims' Right to Review Scheme which took account of the decision in *Killick*. The guidance replaced the system of review set out in the Complaints Policy. This right is also set out in the Victims' Code.

5.3 The victim has a right to seek a review of CPS decisions in certain circumstances if they are not satisfied with the explanation given. That right only exists where the decision is made:

- not to charge a suspect; or
- to discontinue or withdraw **all** charges which involve the victim, thereby bringing an end to all proceedings relating to them; or
- to offer no evidence on **all** charges.

These are known as 'qualifying decisions'. The letter informing the victim of the qualifying decision should contain sufficient information to enable the victim to make an informed decision on whether to seek a review or not.

5.4 When a prosecutor makes a qualifying decision they are required to inform the VLU who should then send the victim a notice of the CPS intention to discontinue, which in appropriate cases includes information about the VRR Scheme.

5.5 We found that, despite the availability of a template paragraph in the VCL letters, this requirement is not being met in a significant proportion of cases. There was no reference to the right to review in 19% of the relevant cases in our file sample. If the victim is not informed of this right in the VCL letter, and if the victim does not read the CPS Feedback and Complaints leaflet which informs them of this right, the opportunity to challenge any decision made is lost to them. This will impact negatively on their perception of the service provided.

There was reference to the Victims' Right to Review where appropriate

Yes	81.0%
No	19.0%

5.6 The CPS Victim and Witness Satisfaction Survey (the CPS survey) found that 70% of victims did not agree with the decision to discontinue the case but only 10% sought a review. Nearly half (49%) of respondents were unaware of the process for having the prosecutor's decision reviewed.

¹⁹ *R v Christopher Killick* [2011] EWCA Crim 1608.

²⁰ *Review of complaints handling by the Crown Prosecution Service follow-up inspection*; HMCPSI; January 2013.

5.7 The victim’s request for the qualifying decision to be reviewed is initially dealt with by the local CPS office or CPS Direct²¹ and is known as a local resolution. A different prosecutor will reconsider the original decision and if that decision is upheld, seek to improve upon the explanation for the decision. Alternatively, the original decision is reversed and, if possible, the prosecution is reinstated. We found in our sample that the communication of review decisions to the victim was not meeting the required standard in over half of the cases. The main issues were:

- grammatical errors
- not using appropriate language or explaining technical legal terms
- the perception of casting the blame on to another agency; and
- lack of empathy with the victim.

The review decision was written to a high standard	
Fully met	46.0%
Partially met	46.0%
Not met	8.0%

There was evidence of empathy with the victim	
Yes	65.1%
No	34.9%

21 This is the CPS Area which takes the majority of CPS decisions as to charge.

Language and tone were appropriate for the recipient, with clear explanations of any legal terms	
Yes	79.6%
No	20.4%

5.8 The local resolution review should be completed and a decision sent to the victim within 30 days, but if that is not possible for whatever reason a holding letter should be sent. Victims entitled to an enhanced service should also be offered the opportunity to meet the prosecutor who carried out the review. There were 17 cases in our sample where victims were entitled to an enhanced service and in four of those cases the response did not give the victim that opportunity.

5.9 Timeliness of responses is also an issue. Substantive responses were made within the 30 day time limit in 74.0% of relevant cases in our file sample, but a holding letter was sent in only 35.7% of those cases which received late responses.

The victim was given an opportunity to discuss the review decision in appropriate cases	
Yes	76.5%
No	23.5%

The review was completed and a decision sent to the victim within 30 days	
Yes	74.0%
No	26.0%

A holding letter was sent in cases requiring more than 30 days	
Yes	35.7%
No	64.3%

Regular updates were provided to the victim in complex or sensitive cases	
Yes	71.4%
No	28.6%

5.10 A number of reasons for the late responses were identified from our file sample:

- the request for a review of the qualifying decision was incorrectly identified as a complaint
- the request occasionally sat in the local Area office for several days before it was identified as correspondence for the VLU
- shortage of staff in the VLU
- cases contained ‘hard media’ (for example CCTV). This is usually returned to the police when the case is finalised rather than being held by the CPS. Recovering the information to review the decision was then consequently delayed. Additionally, reviewing lawyers had to wait unreasonable times to obtain responses for further information from police and CPS staff. This was mainly due to no clear chain of communication and police officers being on leave.

VCL and VRR: case summary from our file sample

The complainant was the victim of an assault in a pub following a dispute with the defendant, which, according to police, was captured on CCTV. The defendant was charged with wounding with intent to cause grievous bodily harm. The defendant argued his actions were motivated by self-defence.

Following receipt of the CCTV footage, the CPS concluded that self-defence could not be disproved from the CCTV. A decision was made to discontinue the case and the police were informed. The victim was not consulted. Despite concluding that the case would not proceed, no VCL letter was sent to the victim explaining the decision.

The officer in the case was asked to notify the victim of the decision when this omission was picked up five days later.

The victim requested a local resolution review. The response did not clearly explain the decision but it did contain an apology (but no explanation) for not notifying him of the decision earlier. The victim then requested a formal VRR decision which was sent to the Appeals and Review Unit (ARU; see next section). The reviewing lawyer in the ARU set out clearly the content of the CCTV and how, taken with other evidence, it meant that the CPS would not be able to disprove self-defence to the high criminal standard required.

Had the original reviewing lawyer provided the response that was eventually given, but in a timely fashion, it would most likely have avoided the VRR review.

Appeals and Review Unit

5.11 The victim should be informed that if the local resolution decision leaves them dissatisfied, they have recourse to the national CPS Appeals and Review Unit (ARU). Victims in 17.9% of appropriate cases in our file sample were not referred to the ARU, and therefore would not have been expected to know that they could have sought further reconsideration.

5.12 The ARU is a CPS Headquarters based specialist unit separate to the VLU. Cases are referred to its VRR team in one of two ways:

- by the victim, after local resolution has left them still dissatisfied by the decision; or
- by the Area, if they take the view that local resolution will not provide the victim with a satisfactory result.

5.13 Each case that comes into the ARU is allocated to a specialist prosecutor who sends an acknowledgment letter in the first instance. The expectation is that the decision will be sent within six weeks, but often this target is not achieved and a holding letter is sent to the victim explaining any delay. The ARU reviewing lawyer carries out a fresh review of the case and can task the police to carry out further enquiries. Generally delay is caused by waiting for hard material (such as CCTV footage) from the Area or police and the completion of further lines of enquiry where necessary.

5.14 We assessed seven responses provided by the ARU VRR team to victims. These cases were additional to our main file sample. The quality of communication was of a high standard and included a detailed account of how the decision was made. It was accepted that they have more time to give to the cases.

Lawyers in CPS Areas dealing with VRR cases at the local resolution stage do so whilst managing a high volume of other casework commitments. They therefore are highly unlikely to be able to devote the same amount of time and attention to their VRR cases as the lawyers in the ARU. This difference shows in the quality of service provided to victims. The letters from ARU were generally of a better quality, showed more empathy, and provided an explanation which was likely to give the victim a much better understanding of how the decision was made. We looked at six thank you letters received by the ARU from victims. These letters support our conclusion that victims appreciate the extra time taken to explain things in detail and answer their queries.

5.15 How much detail the ARU lawyer provides to the victim is dependent on the decision reached by the lawyer. Where the ARU lawyer concludes that the case should be prosecuted, the victim is simply informed that the original decision is being overturned and that the case is being referred back to the relevant CPS Area to conduct the prosecution. The victim is informed that they cannot be given any details of the decision as this might impact on the ability to ensure a fair trial. Where the ARU lawyer concludes that the original decision was the right decision, the victim is provided a detailed explanation. In appropriate cases this includes results from further enquiries such as details of forensics examinations.

VRR: case summary from our file sample

We examined a case involving various allegations of non-recent sexual assault against a mother and her two daughters, who were both under 13 years old at the relevant time. Both daughters are now in their twenties. All victims were entitled to an enhanced service because of the offences. The defendant was the new husband of the mother at the time in question.

The defendant was a serving prisoner for similar sexual matters at the time the family reported the matter to police. Initially the police sought pre-charge advice from the local CPS Rape and Serious Sexual Offences (RASSO) unit. A decision was reached to charge the defendant with sexual offences against the two daughters but that no further action should be taken in respect of the allegations made by the mother on the basis that her evidence was inconsistent. In line with CPS policy for such offences a further second opinion was sought from another RASSO specialist who then agreed with that decision and the decision was relayed to all three family members. The VCL letter to the mother made it clear that in the opinion of the prosecutor there was no realistic prospect of conviction as they had found her evidence inconsistent with other witnesses. This decision was confirmed by a second RASSO specialist.

The mother requested that the matter be reviewed under the VRR Scheme. A local resolution review was then conducted and the reviewing lawyer agreed with the original lawyer's decision for the same reasons. The matter was then correctly referred to the Appeal Review Unit for consideration. The ARU lawyer concluded that insufficient weight had been attached to the original independent evidence and determined the case should have proceeded. The letter written by the ARU lawyer was brief to ensure any future trial was not compromised. The matter was then referred back to the Area which joined the mother's case to that of the ongoing cases of the two daughters.

5.16 At the time of our inspection the level of work which could be referred to the ARU was subject to change. They are facing an increase in their appeals caseload with no apparent corresponding increase in resources. The challenge of managing an increase in their workload could have a negative impact on the overall quality of service provided by the unit.



6 Complaints

6.1 The CPS leaflet entitled Feedback and Complaints²² defines a complaint as: *'An expression of dissatisfaction about any aspect of our service by a member of the public or their representative who has been directly involved in the service complained of'*

6.2 This includes legal complaints relating to legal decisions made by the CPS (excluding VRR cases), and service complaints relating to the way in which CPS staff have conducted themselves. The Independent Assessor of Complaints (IAC)²³ for the CPS will only consider service complaints.

6.3 Victims, witnesses and defendants, or third parties acting on their behalf, are entitled to make a complaint about the quality of service which they have received from the CPS. Anything falling outside of the definition is treated as negative feedback and is not recorded as a complaint (for example someone unconnected to the case expressing a view that the CPS should have done more to secure a conviction).

6.4 An effective complaints system is essential and the CPS handling of complaints has been the subject of scrutiny in two focussed HMCPsi inspections. In 2009²⁴ HMCPsi identified a number of weaknesses which the CPS accepted as failings in the service they were providing to service users. In January 2013 there was a follow-up inspection²⁵ in which

HMCPsi commended the CPS for the introduction of a new complaints system. The new system led to substantial improvement in process, data capture and governance. However, the follow-up inspection found that the quality of investigations of, and responses to, complaints varied considerably. Further the inspection found a continued lack of independent oversight within the complaints process.

6.5 The scope of this inspection does not include a detailed follow-up of the complaints inspection but has considered the quality and timeliness of responses to complaints.

6.6 The findings from our file examination indicate that there has been no improvement in the quality of complaints handling. Further, many of the 'cultural' issues identified in 2009 and 2013 persist, including defensiveness when responding to the complaint, not acknowledging when complaints had merit, and not apologising for failings, as well as ensuring that letters were drafted in a way which addresses relevant issues.

6.7 Complaints come into the CPS in a number of different ways:

- email
- phone calls
- online form via KIM.

6.8 There was a clear and consistent system for managing complaints in all six CPS Areas visited. Staff were aware of the deadlines for handling complaints but timeliness is an issue. In only 66.1% of relevant cases in our file sample was an acknowledgement sent within three days as required by the guidance. This mirrored the findings of the 2013 inspection where the figure was 66% of cases examined.

²² www.cps.gov.uk/contact/feedback_and_complaints/

²³ www.cps.gov.uk/contact/feedback_and_complaints/independent_assessor_of_complaints.html

²⁴ *When things go wrong: a thematic review of complaints handling by the Crown Prosecution Service*; HMCPsi; March 2009.

²⁵ *Review of complaints handling by the Crown Prosecution Service follow-up inspection*; HMCPsi; January 2013.

This would indicate that no progress has been made on this aspect despite the set-up of the VLUs. We also have concerns about the timeliness of responses. Our findings indicated that a number were being sent out on the deadline (20th) day. There was evidence on the files we assessed of VLUs chasing prosecutors on occasion for responses in the expectation of meeting the deadline.

- lack of patience, empathy and compassion
- lack of sensitivity
- defensive replies
- no recognition of the merits of the complaint
- lack of an apology in appropriate cases; and
- inappropriate use of standard text.

6.9 We understand since our inspection that the IAC has reported to the CPS Board on his assessment of complaints and that there has been an improvement overall in timeliness, which we welcome.

6.10 The substantive response gave the complainant an explanation for the delay in only 25% of relevant cases.

The substantive response gave adequate reason for any delay	
Fully met	25.0%
Partially met	3.6%
Not met	71.4%

6.11 The quality of responses to complaints was very inconsistent. Only 64.4% of responses were assessed to be of a high standard. These letters were generally bespoke and tailored the response to address the specific issues raised by, and the impact on, the complainant. They expressed appropriate empathy and concern. Any template paragraphs were re-drafted to fit in with the style of the letter. Over a third of letters (35.6%) did not fully meet the expected standards because of:

The substantive response to the complaint was of a high standard	
Fully met	64.4%
Partially met	27.1%
Not met	8.5%

The response to the complaint correctly identified the merits	
Yes	74.4%
No	25.6%

The response contained an appropriate explanation where there was no merit in the complaint	
Yes	80.0%
No	20.0%

An apology was offered for any failings in performance or service	
Yes	81.4%
No	18.6%

6.12 The Witness Service informed us that, in their experience, victims are uncertain how to complain and do not appreciate the difference in roles of the CJS agencies, so are unclear as to which organisation they can complain. At the time of our 2013 report the CPS had reduced the number of distribution locations for the Feedback and Complaints leaflets but they were still available at CPS public areas and local courts, via the Witness Service. However we found that the Witness Service representatives at courts were not aware of the leaflet or how to advise victims and witnesses on how to make a complaint.

6.13 If a complainant about CPS conduct remains dissatisfied following the first two stages of the complaints procedure he or she may refer the complaint to the IAC for review. The remit of the IAC is to consider complaints 'relating to the service standards and conduct of CPS staff' at the third and final stage of the CPS Feedback and Complaints procedure. Examples of service complaints include being treated rudely or unfairly by CPS staff, failure to provide the correct information, or unnecessary delays in either the service provided or in responding to complaints. The IAC also acts as the guardian of the CPS Feedback and Complaints policy, overseeing the process and supporting the CPS to develop best practice and improved service standards for victims and witnesses.



7 Speaking to victims at court

7.1 A not insignificant aspect of communication with victims is the engagement at court with the prosecuting advocate, or CPS representative. It is evident from our file sample and observations at court that this aspect of victim engagement has been, and continues to be, a cause for concern because the quality of service delivered to victims at court is inconsistent.

7.2 At the time of our inspection, the CPS had, following consultation, drafted new guidance entitled “Speaking to Witnesses at Court” in an effort to improve the quality of service delivered to victims and witnesses at court by prosecuting advocates. That guidance has now been issued and is being trialled in three CPS Areas. It is set to be rolled out nationally in early 2016.

7.3 The Victims’ Code and the Witness Charter²⁶ state that where circumstances permit, the CPS prosecutor or representative meet the victim and allow them to ask him or her questions about the court process, and the prosecutor or representative will indicate, where possible, how long the victim may have to wait before giving evidence. The CPS Victim and Witness Satisfaction Survey (the CPS survey) confirms our findings that there is still a lot more that needs to be done to ensure consistency of service. So, for example, only 59% of victims in the CPS survey said that the prosecutor introduced themselves and gave them an opportunity to ask any questions.

7.4 The CPS survey also found that less than half of the victims (49%) who had been cross-examined in a trial were satisfied that they had been given enough support. Failing to engage with the victim can leave them feeling isolated, especially given the level of contact that the defendant may be perceived to have with their representative at court.

7.5 Additionally the survey showed that only 45% of those falling into the class of victim entitled to an enhanced service were satisfied with the support that they received at court. Nearly half of the victims of sexual offences had not received enough support before being cross-examined. The new guidance reminds prosecutors of their duty to speak to victims at court and advises them of what they can and cannot say in these meetings in an effort to avoid the perception of ‘coaching’.²⁷

7.6 The data from our sample is consistent with the CPS survey results in that they indicate that the Victims’ Code is being met in just over half of all cases and that there is no real difference in the quality of service in the magistrates’ court and the Crown Court.

The Victims’ Code, Prosecutors’ Pledge and any other policy guidance on the treatment of witnesses was complied with	
Fully met	51.6%
Partially met	32.3%
Not met	16.1%

²⁶ *The Witness Charter: standards of care for witnesses in the criminal justice system*; Ministry of Justice; December 2013.

²⁷ Rehearsing a witness on what they should say or attempt to persuade the witness into giving their evidence in a particular way.

Responses from Witness Service representatives to our survey

CPS barristers will usually meet victims and witnesses in the morning of a trial but are then often invisible to the victims and witnesses, expecting WS to find out what's going on and give updates.

Sometimes the Witness Service volunteers are even asked to tell victims and witnesses to go home or that they are no longer required.

All updates regarding how the case is progressing during the trial should be done, if possible, by the prosecutor or another CPS representative.

Victims and witnesses are often the last to know about the reasons for delays and this increases their anxiety.

There should be more clarity about what witnesses can expect at court.

Many victims are shocked that they only meet the barrister prosecuting the case on the day of trial and then albeit rather briefly, depending on the offence. This is hard for a victim to understand when they see a defendant have regular contact with a barrister/solicitor.

The views of Witness Care Officers in response to our survey

Barring orders²⁸ are often very unrealistic.

Asking several witnesses to come on a certain day when only one is likely to actually give evidence.

Warning victims to attend at 10am on day 1 of the trial, even when there are likely to be lengthy legal arguments and an opening speech. This causes unnecessary waiting.

More and more often several witnesses in a case are told at court on the day of trial that they are no longer required to give evidence. This is extremely frustrating as often these individuals will have been in a state of distress for quite some time about giving evidence. It gives the impression that trials are not being properly prepared and decisions are being made last minute.

Late listings in different court houses can be a real bugbear for victims especially where they have to travel significant distances.

Increased use of live-link would help victims and bring about savings in time and money.

28 The order in which witnesses are called to give their evidence.

7.7 CPS staff reductions and courts multiple listing cases have put a strain on a prosecutor's ability to meet victims and witnesses at court. The multi-listing of trials in the magistrates' courts leaves prosecutors with little time to speak to victims before the trial starts. This is made more difficult, if not impossible, because victims may not be told to arrive at court well enough in advance of the hearing to allow the prosecutor to meet them.

7.8 Prosecutors do not always have pre-trial meetings with victims in all relevant cases. Often this may be caused by late changes of prosecuting counsel. Therefore it is not known sometimes until very close to the trial date who will have conduct of the case. The Witness Service report that a small minority of counsel still give the impression that it is not their role or duty to meet with victims and witnesses. Victims are often not able to distinguish between the different CJS agencies and the role that they perform, which can leave them unsure of the process. This is borne out by the CPS survey.

7.9 There is currently very little, if any, CPS paralegal support in the Crown Court and so, depending on the number of cases the prosecutor has, the same difficulties exist. The lack of paralegal coverage at court impacts on the quality of service as previously they often assisted counsel and prosecutors by giving victims copies of their statements (to enable them to refresh their memory) and expense claim forms and kept them informed about the progress of the case generally. In one Area we visited, agents and counsel would go to the Witness Service ahead of the arrival of victims and leave statements in the care of the Witness Service to hand to victims. The Witness Service

manager has instructed her team of volunteers to collect them up after the case and put them in an envelope for shredding or to be handed back to the CPS. In the Crown Court counsel tend to be inconsistent at fulfilling their duty to speak to victims before or after a hearing.

7.10 The Witness Service is usually the victim's first contact at court. It would be good practice for prosecutors of trial courts to seek out the Witness Service when they arrive at court and let them know which trial(s) they are prosecuting and what witnesses they are expecting. They should also alert them to any specific needs or support that the victim requires. This would enable the Witness Service to be better informed and also would set the right tone for the victim. The victim will know that the prosecutor has made an initial effort even if for some reason they do not meet them before the hearing begins. The Witness Service report that a few prosecutors do this but the Witness Service representatives routinely have to try to find out who the prosecutor is when the victim arrives to inform them that the victim has arrived.

7.11 It is clear from our interviews that the Witness Service endeavours to ensure that the victim experience at court is as positive as it can be in the circumstances. However there is scope for better working relationships with the CPS. In some courts the Witness Service managers know who the prosecutors at their courts are and who to speak to if they have any victim or witness issues, or issues with any of the prosecutors. In too many courts however this is not the case. The Witness Service does not know who the prosecutors or paralegal officers are, nor do they have a CPS point of contact.

7.12 A few CPS Areas provide some form of induction for new prosecuting counsel on their roles and responsibilities in relation to victims and witnesses. This covers endorsements on the hearing record sheets (HRSS) and other expectations the CPS may have but this does not appear to be a national practice. The roles are blurred. Clarity of the roles and responsibilities of paralegal officers, prosecutors and the Witness Service would be a start to improving the quality of service delivery to victims at court. The CPS has made a start in this regard with the pilot of the guidance on speaking to witnesses at court which is discussed in the next section of this report.

7.13 Prosecutor compliance with keeping victims informed on the progression of the case during the day is patchy. The Witness Service and the police officer in the case routinely inform victims of any delays in proceedings at court where that information is communicated to them.

7.14 A similar practice has been adopted in another London Crown Court but we were informed that its application was inconsistent.

7.15 One CPS Area reported that this used to be routine in their Crown Court centres but the practice has lapsed for some reason. They told us that they would speak to their Resident Judge to see about re-invigorating the practice.

7.16 At times on the day of the proposed trial, defendants offer pleas to less serious charges, or as a result of last minute developments, prosecutors conclude that the defendant can no longer be tried on the original charges (thus requiring them to be amended) or at all, resulting in the trial not proceeding. In such circumstances, there is a requirement for the prosecutor to liaise with the police and the victim to get their view before making a final decision. The data from our file sample shows that in the majority of relevant cases, there is no evidence that the victims were consulted before these decisions were made.

Example of good practice
 In one of the London Crown Court centres visited, the Resident Judge arranges for the prosecutor and defence counsel to accompany him to meet victims with enhanced status before they give evidence. He introduces himself and the lawyers and gives them an idea of how long they may have to wait before they are called to give their evidence. It is a practice he had developed in his courthouse and he encourages his fellow judges to adopt the same approach.

The views of the victim were taken into account when deciding to discontinue one or more charges, accept lesser pleas or take a basis of plea	
Yes	26.1%
No	71.7%
Not known	2.2%

Keeping the victim informed

7.17 The Victims' Code says that victims should have a point of contact at court so that they can find out how the trial is progressing. This does not appear to happen. It would certainly allow victims an opportunity to feel more in control of their experience rather than sitting in the witness room waiting for someone, anyone, to tell them what is going on, especially if they have been waiting for some time. The Witness Service reports that lack of communication at court is the most significant concern for victims.

Example of good practice

In one Crown Court we observed the judge introduce himself, prosecuting counsel and defence counsel to the victim (a young man with attention deficit hyperactivity disorder (ADHD)). The young man was to give his evidence via video-link. The judge explained to him that he wanted him to be able to recognise their voices as he would not be able to see the whole court room and who was speaking at any given time. He explained that he had seen his ABE²⁹ but he would not be called to give evidence for at least an hour as they had to view his ABE with the jury first. This very short meeting seemed to visibly put the young man at ease.

7.18 The loss of resources in both the magistrates' court and the Crown Court presents a challenge for the CPS in providing a service to victims and witnesses. Despite the efforts of some prosecutors, CPS interaction is either brief or non-existent once court proceedings have begun.

7.19 A further challenge for prosecuting counsel in the Crown Court is that they have no access to CMS and the withdrawal of paralegal officers from the Crown Court means that they have no live information on events, for example information on witness attendance.

7.20 Prosecutors rarely speak to victims at the end of court hearings but it is difficult to do when there may be other witnesses they have to call to give evidence. The Witness Service reports that most victims leave the courthouse after giving evidence and that it is not uncommon for victims to contact the Witness Service or the WCU to find out the outcome of the case.

7.21 The Witness Charter³⁰ says that witnesses should not have to wait more than two hours to be called to give their evidence. The system is currently letting victims and witnesses down in that too often they have to wait more than a couple of hours. The CPS survey results show that over half (51%) of victims have waited in excess of two hours to give their evidence and 22% had experienced a wait in excess of four hours.

²⁹ Achieving Best Evidence (ABE) – The visually recorded statement of young victims and witnesses with the police is usually described as the 'ABE DVD'. It is usually played as their evidence-in-chief at trial.

³⁰ Page 2.

7.22 The view of the WCUs is that they could provide a better service if they knew ahead of the trial date the order in which witnesses were to be called (known colloquially as a ‘batting order’). The biggest complaint of victims is that they are kept waiting around at court and are sometimes not called on the first day of the trial yet are told to attend. This does impact on public confidence. The prosecution and defence have to agree witness requirements on the defendant entering a plea of not guilty. The prosecutor should therefore know when preparing for trial the order in which they will be calling the witnesses in their case. A batting order or, where there is one, a realistic batting order would provide a better indication of when in reality a witness should expect to give their evidence and thereby minimise the length of time spent waiting.

7.23 The lack of a batting order, incorrect witness warnings to attend court and late case listings in different courts can be a real frustration for victims, especially if they have child care needs or are vulnerable. We noted a few incorrect witness warnings when we carried out observations on delivery of service at the Crown Court.

7.24 The CPS has been reducing the number of paralegal officers at court over the last few years as it manages cuts in resources. Yet one of the ways in which it is planning to improve delivery of service at court is to increase the presence of paralegal support staff at the Crown Court. This will need to be managed carefully to ensure that this does not impact adversely on other aspects of their work. Our recent inspection of the RASSO units has found that it is a challenge for the CPS to provide paralegal coverage even for the most serious cases such as rape.

7.25 The CPS guidance on speaking with witnesses at court sets out the requisite standard of service for CPS prosecutors and counsel. The CPS needs to be realistic about what it can deliver given its increase in casework. It may find that more collaborative and innovative working with CJS partners may be the way forward to improve the overall quality of service provided to victims at court. The Witness Service managers and their teams provide a huge support to victims and witnesses at court. A closer working relationship with the Witness Service may assist them to raise the standard of service to victims.

A Witness Service Manager on keeping victims informed

“.....different prosecutors work in different ways. What I can say is that where an individual prosecutor has an excellent working relationship with the Witness Service it makes all the difference to how well informed the witness is kept.”

Annexes

A Methodology

The objective of this inspection was to evaluate how effectively the CPS delivers its commitments to communicate with victims, including compliance with the Victim Focus Scheme, the revised Victims' Code and the Victims' Right to Review Scheme. The team reviewed the relevant systems and processes that underpin the CPS victims' strategy and support the delivery of service to victims. Six CPS Areas were chosen for the fieldwork including two of the pilot sites for the Victim Liaison Units.

The team

The team was comprised of five legal inspectors (including the lead), two business management inspectors, a data analyst and an administrator.

File examination

The team read a total of 162 finalised files, comprising complaints, VRR and VCL files. The offences which involved victims were mainly rape and serious sexual offences (RASSO); offences of violence; theft; robbery and criminal damage. Some of these included domestic abuse and hate crime. The file sample gives a snap shot of current performance. Files were assessed for compliance with the Victims' Code; consideration of the victim's views before discontinuance or substantial alteration of charge; timeliness; quality of letters' content; and whether, in appropriate cases, a meeting was offered to the victim. The file sample was assessed against set criteria and the data from the file examination is set out in annex B.

Survey

Electronic questionnaires on key aspects of this area of practice were sent to VLUs, Witness Care Units, the Witness Service and Police and Crime Commissioners (PCCs) in those CPS Areas the inspection team did not visit. The response rate was low, but we have included their views in the relevant parts of the report.

The fieldwork

The inspection team visited six CPS Areas over a period of three weeks: Mersey-Cheshire; Cymru-Wales; London; East of England; Wessex; and South West. The team spoke to Area Business Managers, managers of Crown Court and magistrates' courts hubs, managers of the VLUs and VLU officers. They interviewed managers of WCUs, heads of Criminal Justice Units, Citizens Advice, Victim Support, managers of the Witness Service, local PCCs and the Victims' Commissioner. National leads from CPS Headquarters, including CPS Policy Leads for victims' issues, were also spoken to.



B File reading data

Question		All cases	Mags' Court	Crown Court
1 The Victims' Code, Prosecutors' Pledge and any other policy guidance on the treatment of witnesses was complied with	FM	51.6%	48.2%	66.7%
	PM	32.3%	35.3%	14.3%
	NM	16.1%	16.5%	19.0%
2 In appropriate cases, a meeting was offered	Yes	68.0%	75.0%	66.7%
	No	28.0%	25.0%	26.7%
	NK	4.0%	0%	6.6%
3 If a meeting has been offered, its purpose was explained	Yes	94.1%	100%	90.9%
	No	0%	0%	0%
	NK	5.9%	0%	9.1%
4 The attendance of victims and witnesses was secured appropriately	Yes	89.8%	84.4%	100%
	No	10.2%	15.6%	0%
5 There was evidence of empathy with the victim	Yes	65.1%	62.0%	76.2%
	No	34.9%	38.0%	23.8%
6 Language and tone were appropriate for the recipient, with clear explanations of any legal terms	Yes	79.6%	78.8%	76.2%
	No	20.4%	21.2%	23.8%
7 The views of the victim were taken into account when deciding to discontinue one or more charges, accept lesser pleas or take a basis of plea	Yes	26.1%	26.9%	0%
	No	71.7%	71.2%	87.5%
	NK	2.2%	1.9%	12.5%
8 There was timely VCL communication when required	Yes	56.6%	60.0%	61.1%
	No	43.4%	40.0%	38.9%
9 The reasons for discontinuing or substantially altering one or more of the charges were clearly explained	FM	47.9%	51.0%	35.3%
	PM	36.5%	31.4%	47.1%
	NM	15.6%	17.6%	17.6%
10 The VCL communication was of a high standard	FM	16.8%	18.0%	23.5%
	PM	64.2%	64.0%	53.0%
	NM	19.0%	18.0%	23.5%
11 There was reference to the Victims' Right to Review where appropriate	Yes	81.0%	80.0%	83.3%
	No	19.0%	20.0%	16.7%

FM Fully met

NK Not known

NM Not met

PM Partially met

Question			All cases	Mags' Court	Crown Court
12	An acknowledgement of the complaint was sent within 3 days of receipt by the CPS	Yes	66.1%	69.2%	100%
		No	33.9%	30.8%	0%
13	The substantive response to the complaint was of a high standard	FM	64.4%	64.1%	0%
		PM	27.1%	23.1%	100%
		NM	8.5%	12.8%	0%
14	The substantive response gave adequate reasons for any delay	FM	25.0%	23.8%	28.6%
		PM	3.6%	4.8%	0%
		NM	71.4%	71.4%	71.4%
15	The response to the complaint correctly identified the merits	Yes	74.4%	67.9%	90.9%
		No	25.6%	32.1%	9.1%
16	The response contained an appropriate explanation where there was no merit in the complaint	Yes	80.0%	78.6%	50.0%
		No	20.0%	21.4%	50.0%
17	An apology was offered for any failings in performance or service	Yes	81.4%	79.2%	87.5%
		No	18.6%	20.8%	12.5%
18	The VRR review was completed and a decision sent to the victim within 30 days	Yes	74.0%	66.7%	68.2%
		No	26.0%	33.3%	31.8%
19	A holding letter was sent in cases requiring more than 30 days	Yes	35.7%	28.6%	42.9%
		No	64.3%	71.4%	57.1%
20	Regular updates were provided to the victim in complex or sensitive cases	Yes	71.4%	0%	83.3%
		No	28.6%	100%	16.7%
21	The review decision was written to a high standard	FM	46.0%	42.1%	60.0%
		PM	46.0%	47.4%	40.0%
		NM	8.0%	10.5%	0%
22	The victim was given the opportunity to discuss the review decision in appropriate cases	Yes	76.5%	83.3%	70.0%
		No	23.5%	16.7%	30.0%
23	Appropriate reference was made to the Appeals and Review Unit and Chief Crown Prosecutor	Yes	86.5%	91.7%	100%
		No	13.5%	8.3%	0%

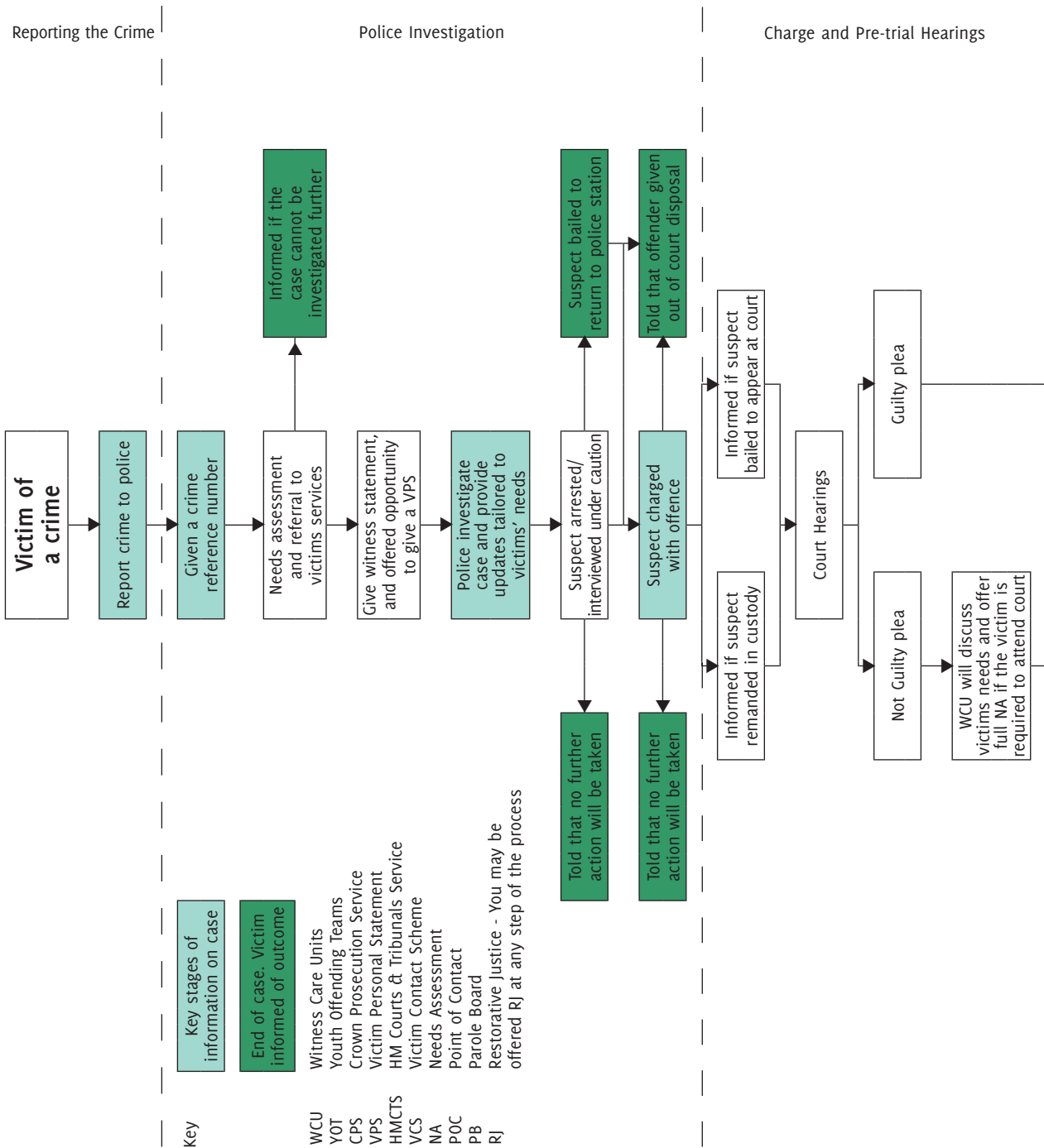
FM Fully met

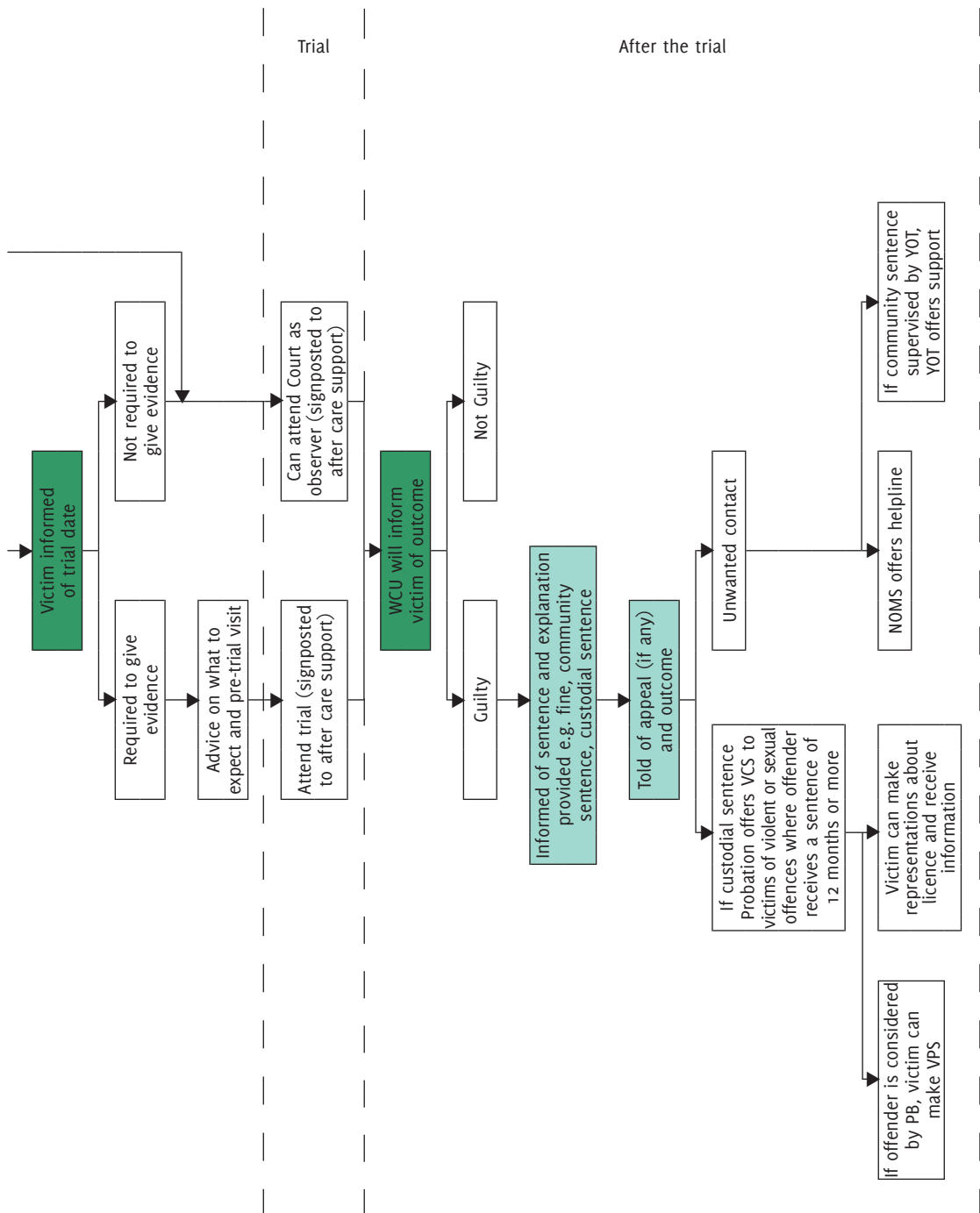
NK Not known

NM Not met

PM Partially met

C The victim's journey through the criminal justice system





D Glossary

Achieving Best Evidence (ABE)

The visually recorded statement of young victims and witnesses with the police is usually described as the 'ABE DVD'. It is usually played as their evidence-in-chief at trial.

Area Business Manager (ABM)

The most senior non-legal manager at CPS Area level.

Annual Casework Evaluation Programme (ACEP)

Examination of a range of CPS files undertaken annually by HMCPSP. Files are taken from across the CPS and cover a range of serious and less serious casework.

Case management system (CMS)

IT system for case management used by the CPS. Through links with police systems CMS receives electronic case material. Such material is intended to progressively replace paper files.

Charging decision

Since the Criminal Justice Act 2003, this is the process by which the police and CPS decide whether there is sufficient evidence for a suspect to be prosecuted. The process is governed by the Director's Guidance, the latest edition of which came into effect in early 2011.

Chief Crown Prosecutor (CCP)

The most senior legal manager at CPS Area level and the person who is held to account for its assurance controls and performance.

Counsel

Barrister in practice at the independent Bar who is instructed to present cases for the CPS.

CPS Direct (CPSD)

This is the CPS Area which takes the majority of CPS decisions as to charge under the charging scheme. Lawyers are available on a single national telephone number at all times so that advice can be obtained at any time.

Direct Communication with Victims (DCV)

Replaced by the VCL Scheme referred to below.

Discontinuance

The formal dropping of a case by the CPS through written notice (under section 23 Prosecution of Offences Act 1985).

File endorsements

Notes on a case file that either explains events or decisions in court or that provide a written record of out of court activity.

Hearing record sheet (HRS)

A CPS electronic record of events at court. If completed correctly it acts as a continual log of court proceedings and court orders.

Judicial review proceedings

The process by which the lawfulness of a decision or action of a public body, acting in a public capacity, can be challenged in the Administrative Court.

Individual Quality Assurance (IQA)

The process by which the performance of an individual prosecutor is assessed on an activity in accordance with the CPS Casework Quality Standards (CQS). The standards set out the quality of service which the public are entitled to expect. The standards reflect legal and professional obligations.

Knowledge and information management (KIM)

Knowledge and information management system and internal CPS intranet.

Paralegal officer

A member of CPS staff who deals with, or manages day to day conduct of a prosecution case under the supervision of a Crown Prosecutor and, in the Crown Court, attends court to assist the advocate.

Police and Crime Commissioner (PCC)

PCCs are elected by their constituents. Their primary role is to set the strategic direction of local policing and to hold the Chief Constable to account for the performance of the police force. They now also have responsibility for the commissioning of support services for victims.

Review, (initial, continuing, summary trial etc, full file)

The process whereby a Crown Prosecutor determines that a case received from the police satisfies and continues to satisfy the legal test for prosecution in the Code for Crown Prosecutors. One of the most important functions of the CPS.

Serious sexual offence

Serious sexual crime includes rape, sexual assault, sexual activity offences, abuse of children through prostitution or pornography, and trafficking for sexual exploitation.

The Code of Practice for Victims of Crime (the Victims' Code)

A statutory code of practice for the treatment of victims of crime, with which all criminal justice agencies must comply. Its aim is to improve victim contact with the criminal justice

agencies by providing them with the support and information they need. It was published in October 2013.

Victim Communication and Liaison (VCL) Scheme

Formerly Direct Communication with Victims (DCV). A CPS scheme under which victims are informed of decisions to discontinue or alter substantially any charges. The CPS must notify the victim of a decision to discontinue or substantially alter a charge within one working day for vulnerable or intimidated victims and within five working days for all other victims. In some case categories a meeting will be offered to the victim to explain these decisions.

Victim Liaison Unit (VLU)

A dedicated team of CPS staff in every Area responsible for all direct communication with victims, administering the Victims' Right to Review Scheme, complaints, and for overseeing the service to bereaved families.

Victims' Right to Review (VRR)

Under the scheme a review of the following CPS decisions can be sought: not to charge; to discontinue (or withdraw in the magistrates' courts) all charges thereby ending all proceedings; to offer no evidence in all proceedings; and to leave all charges in the proceedings to "lie on file". (Lie on file is the term used in circumstances where the CPS makes a decision not to proceed and requests that the charges be allowed "to lie on the file" marked 'not to be proceeded with without the leave of this Court or the Court of Appeal').

Victim Support

Independent charity supporting victims and witnesses of crime.

Violence against women and girls (VAWG)

This is the umbrella under which rape and serious sexual assaults sit for work undertaken internationally, across Government, across the agencies and within the CPS.

Vulnerable and intimidated witness

Witnesses who may be vulnerable or intimidated for the purposes of special measures assistance include all child witnesses (under 18) and any witness whose quality of evidence is likely to be diminished because they are suffering from a mental disorder (as defined by the Mental Health Act 1983) or have a significant impairment of intelligence and social functioning, or have a physical disability or are suffering from a physical disorder. Complainants to sexual offences are automatically defined as an intimidated witness unless they wish to opt out.

Witness Care Unit (WCU)

Unit responsible for managing the care of victims and prosecution witnesses from a point of charge to the conclusion of a case. Staffed by Witness Care Officers and other support workers whose role it is to keep witnesses informed of progress during the course of their case. Units may have a combination of police and CPS staff (joint units) but most no longer have CPS staff.

Witness Service

The Witness Service is an independent charity which is run in the main by volunteers. It now comes under Citizens Advice. It helps victims, witnesses, their families and friends when attending any criminal courts in England and Wales. This includes facilitating pre-trial visits and support on the day of the court hearing.



HM Crown Prosecution Service Inspectorate

London Office:

One Kemble Street

London WC2B 4TS

Tel. 020 7210 1187

Fax. 020 7210 1186

York Office:

Foss House, Kings Pool

1-2 Peasholme Green

York, North Yorkshire, YO1 7PX

Tel. 01904 54 5490

Fax. 01904 54 5492

© Crown copyright 2016

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence.

To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/

or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU,

or e-mail: psi@nationalarchives.gsi.gov.uk

This document/publication is also available on our website at www.justiceinspectors.gov.uk/hmcpai