

WITNESS CARE PROCEDURE



SUMMARY

'STAFF ARE REMINDED THAT THIS SUMMARY IS STRICTLY AN OVERVIEW OF THE KEY ELEMENTS OF THE DOCUMENT AND FOR A MORE COMPREHENSIVE EXPLANATION THE WHOLE OF THE DOCUMENT SHOULD BE READ IN PARTICULAR SECTION 1.2'

The procedure deals with the processes to be adhered to by Gwent Police Personnel and the Witness Care Unit (W.C.U.) and its aims are:-

- To ensure that both Witnesses and Victims are treated in accordance with the Witness Charter and the Codes of Practice for Victims of Crime, by maintaining a constant supportive link with victims, ensuring their contact with Gwent Police is as smooth and stress free as possible.
- To improve witnesses and victims confidence in the Criminal Justice system by ensuring that all Police personnel comply with both the Witness Charter and the Victims Code by putting victims and witnesses at the heart of the drive to improve public confidence. This will be achieved by :
 - Keeping a victim up-to-date, at least monthly, on the progress of their case and informing them and witnesses when a suspect is arrested, bailed or charged.
 - Keeping both Victim and Witnesses updated with the progress of the case through the Court system.
 - Working with the other agencies involved in the Criminal Justice system in order to provide a seamless service.

Victims or witnesses to a crime, can obtain information on the Gwent Police Witness Care website, which will provide them with the advice they require, and answer any questions or provide details in relation to a single point of contact.

The procedure outlines the detailed processes to achieve the above outcomes.

There are charts following this summary which provide guidance on actions to be taken. Further detailed information is outlined at section 1.2.

PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UP TO DATE VERSION CAN BE FOUND ON THE INTRANET POLICIES SITE.

**OVERVIEW OF PROCESS
CHART 1**

Procedure

Area of Compliance

Victims Code of Practice = VCOP
 Witness Charter Standards = W/Charter
 (These documents can be viewed on the Force Intranet)

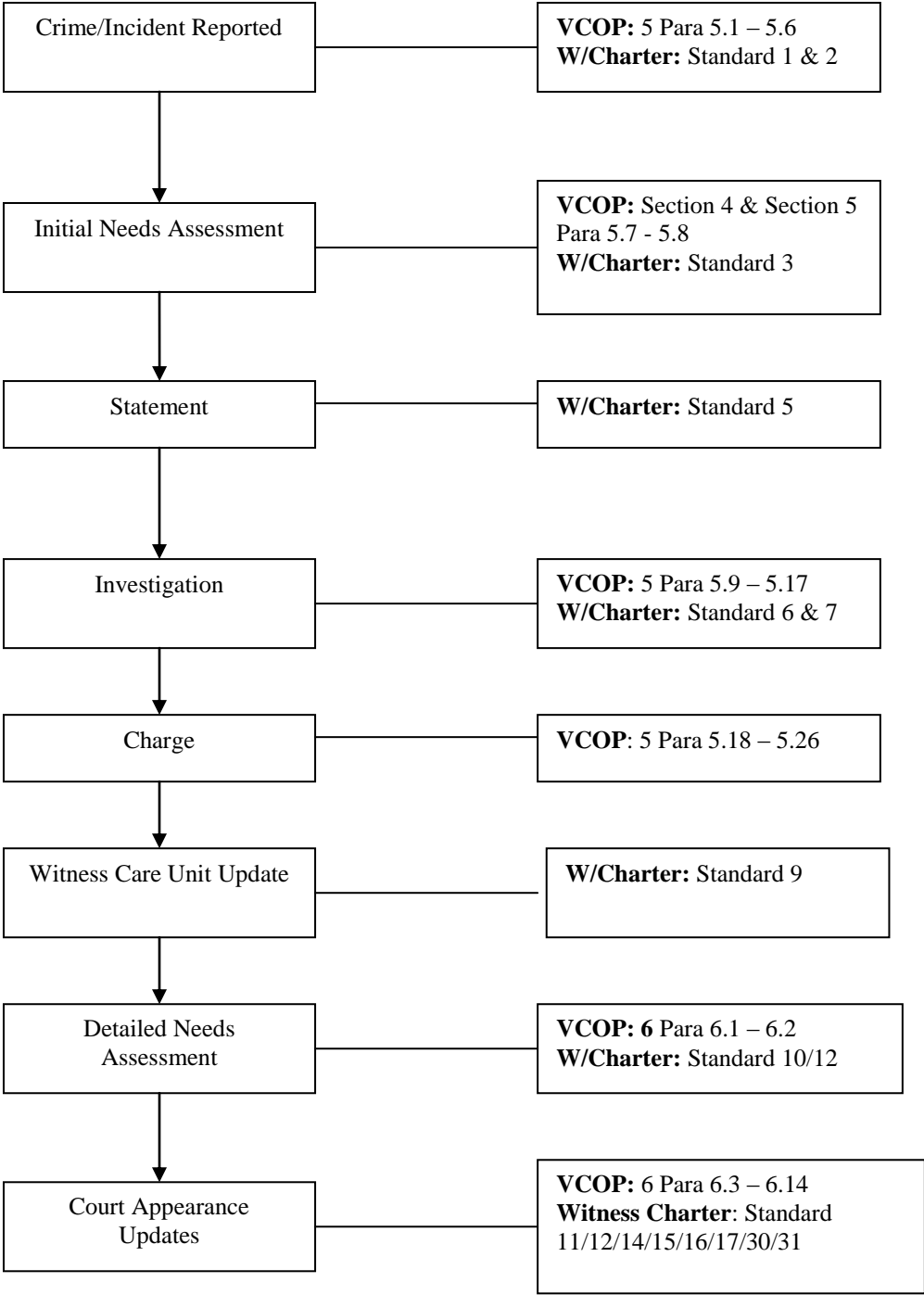


CHART 2
Police Personnel Witness and Victims
Check list

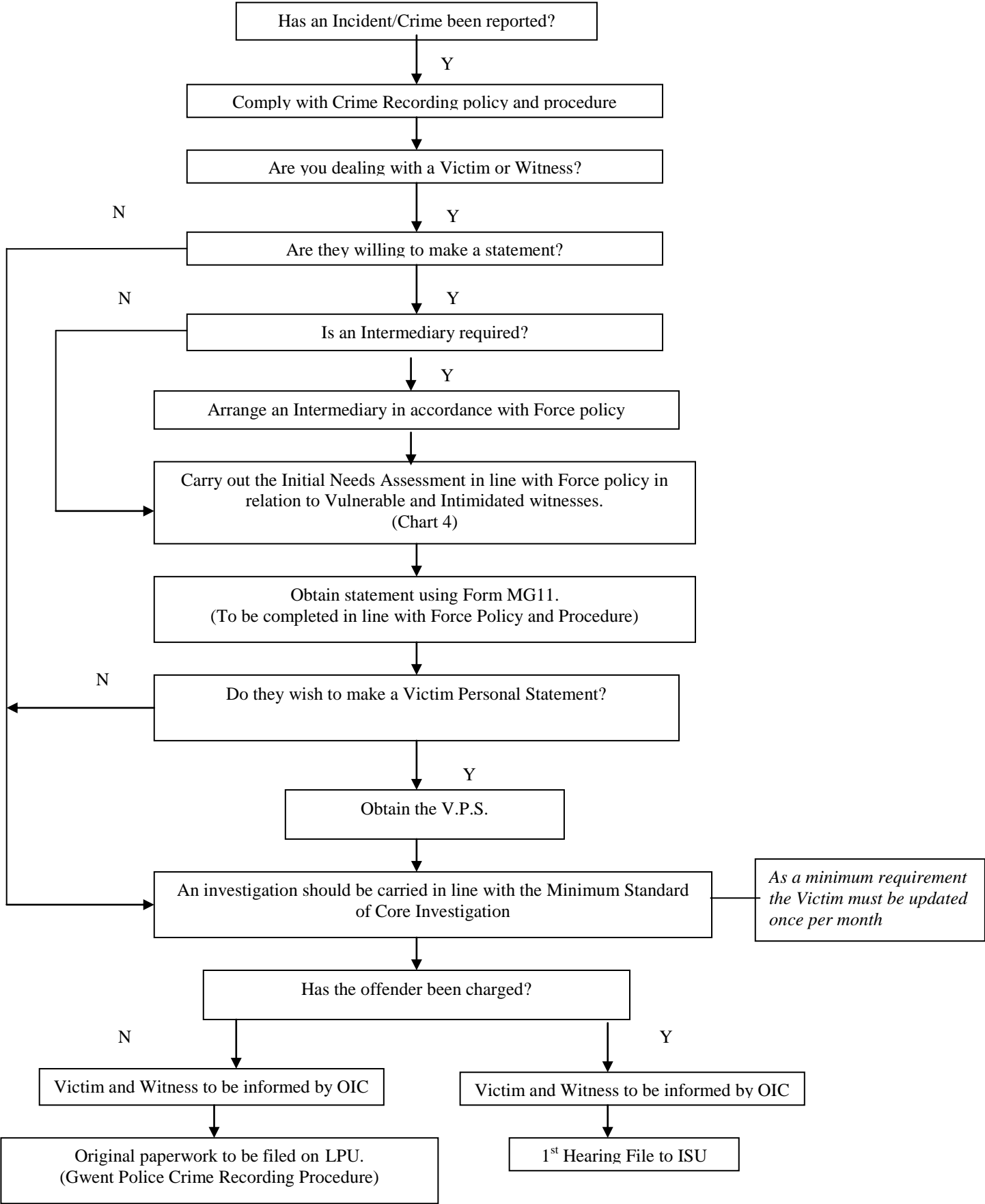


CHART 3
Witness Care Unit Witness and Victims
Check list

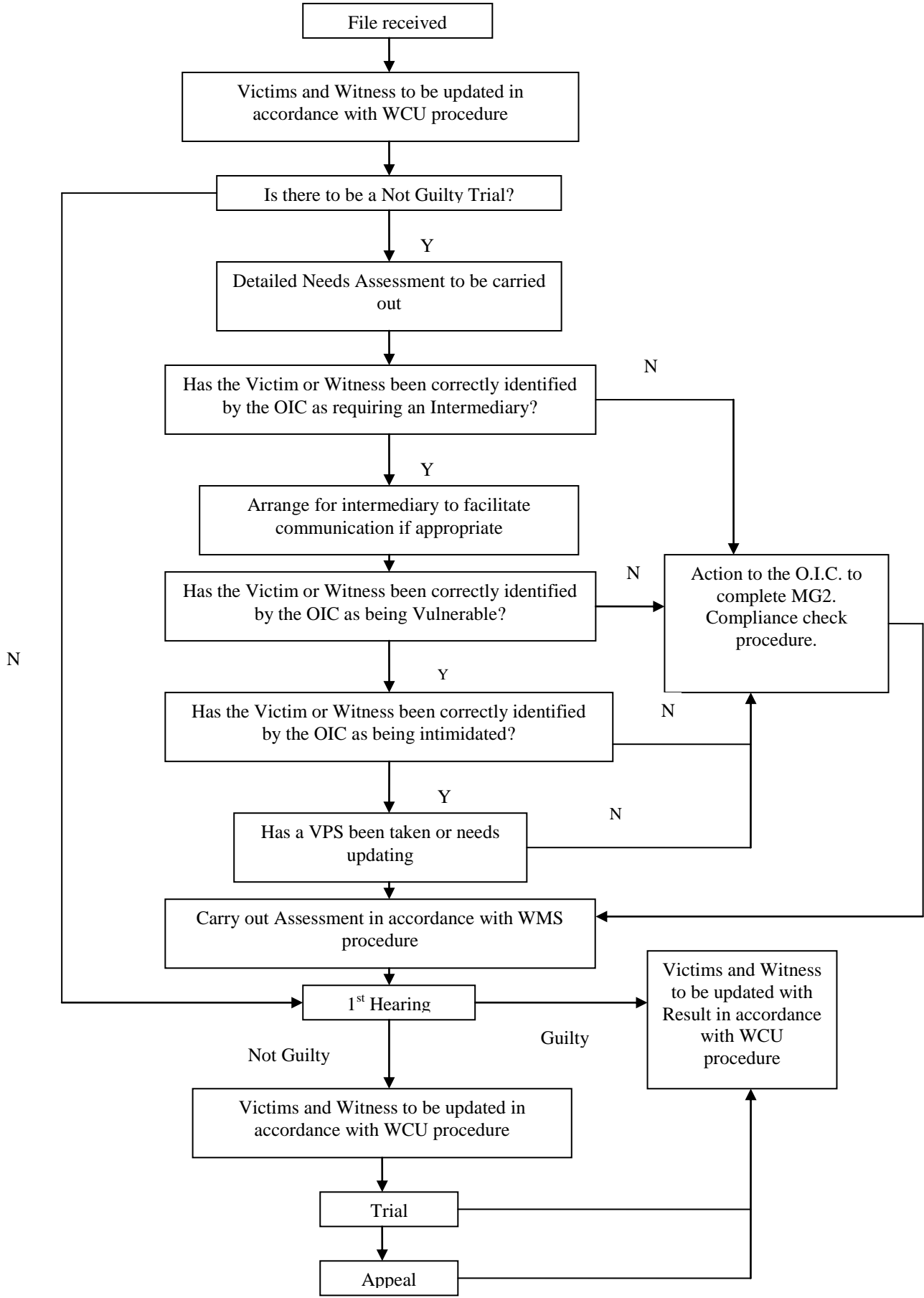


CHART 4 Vulnerable and Intimidated Witness Flowchart

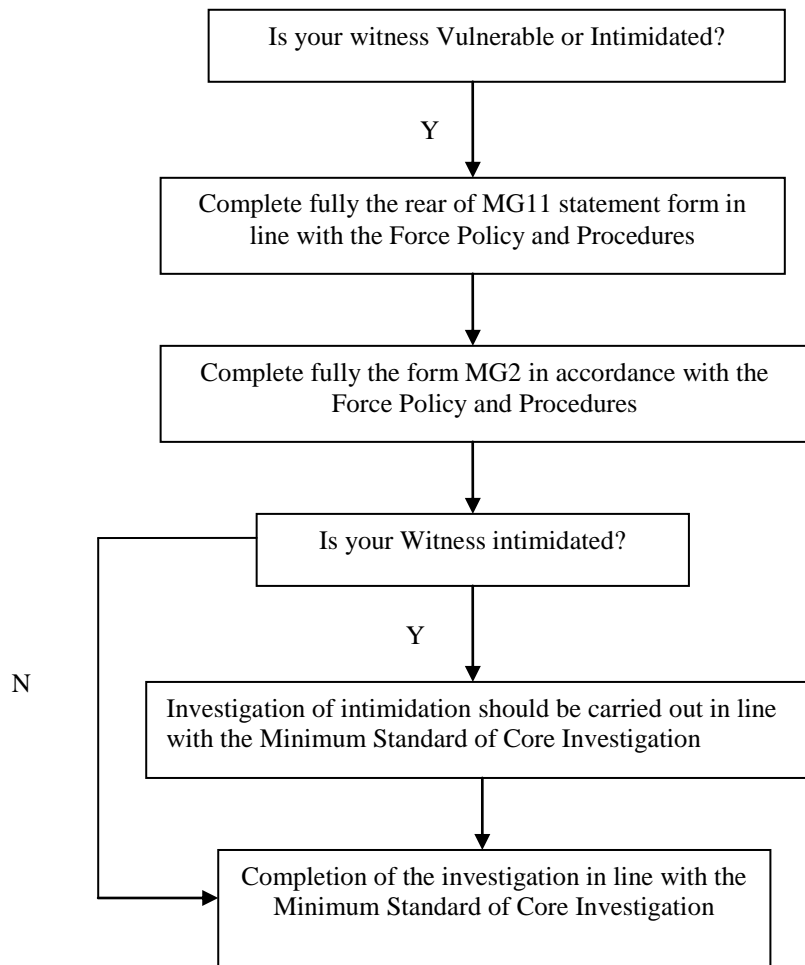
Definition of a Vulnerable and Intimidated Witness.

Section 16 of The Youth Justice and Criminal Evidence Act 1999 identifies the following as categories of vulnerable witnesses: -

- Children under 17 years of age at the time of the hearing
- Witnesses suffering from a mental disorder as detailed under The Mental Health Act 1983
- Witnesses significantly impaired in relation to intelligence and social functioning (learning disabled witnesses)
- Physically disabled witnesses including sensory impairments or who are experiencing a physical disorder.

The fifth type of vulnerable witness is defined in Section 17 of The Youth Justice and Criminal Evidence Act 1999 and is defined as: -

- witnesses suffering from fear or distress in relation to testifying in the case (intimidated witnesses)



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1.0 Guidance, Procedures, Tactics

1.1 Risk Assessments and Health and Safety Considerations

1.1 The Gwent Police Service dynamic risk assessment should be applied as necessary. A training package in the use of risk assessment will be provided to all police staff if required or requested.

1.2 Specific Instructions

Police Personnel.

1.2.1 Staff should consult the Police Personnel Witness and Victims

Check list (chart 2) and the Vulnerable and Intimidated Witness Flowchart (chart 4).

1.2.2 On receiving a report of an incident/crime all police personnel should comply with the Force Crime Recording policy which can be found on the force intranet policies site.

1.2.3 It should be ascertained if the person reporting the crime/incident is either a victim or witness and that they are willing to make a statement .

1.2.4 If a statement is to be taken it should be established if an intermediary is needed to facilitate with communications. This procedure can be found on the force intranet policies site. If not required go to 1.2.5.

1.2.5 The Initial Needs Assessment is now required to be undertaken and the rear of the MG11 form should be completed in full (Chart 4)

1.2.6 A statement should now be taken and the Force Policy on the Minimum Standard of Core Investigation should be adhered to. The booklet 'Giving a witness statement to the Police – what happens next?' should be given to the witness

1.2.7 The victim should be asked at this point if they would like to make a Victim Personal Statement and one should be obtained if requested. The booklet 'Making a Victim Personal Statement' should be given to the victim.

1.2.8 An investigation should be carried in line with the Gwent Police Policy on the Minimum Standard of Core Investigation

1.2.9 The Victim should be regularly updated with the progress of the investigation and at least once per month. This should be recorded on the Guardian Crime Recording system.

1.2.10 On a charging decision being made, the O.I.C or any other nominated person should update all victims and witnesses as to the outcome. This will include all methods of disposal from Charge to No Further Action. Victims and witnesses should be updated within 1 working day for Vulnerable and Intimidated victims and 5 working days for all others. This should be recorded on the Guardian Crime Recording system.

1.2.11 Following a charge the OIC/nominated person should forward the 1st Hearing File to the Investigative Support Unit. In every other case upon completion of enquiries the original paperwork will be filed on LPU. (Gwent Police Crime Recording Procedure)

Witness Care Unit

1.2.12 On receipt of the allocated task on the NSPIS case preparation system the W.C.U will make contact with the victim and witnesses and provide information in line with the Witness

Charter. Staff should consult Chart 3.

1.2.13 It should then be ascertained if there is to be a Not Guilty Trial and carry out the Detailed Needs Assessment. If not then go to 1.2.20.

1.2.14 It should now be ascertained if the OIC has correctly identified the witness or Victim as requiring an intermediary. If not then the matter should be referred to the OIC for action, and for information purposes to both the Police case progression and the Crown Prosecution Service. If required the WCO should arrange contact with the victim or witness through the intermediary.

1.2.15 It should now be ascertained if the OIC has correctly identified the witness or Victim as being Vulnerable. If not then the matter should be referred to the OIC for action, and for information purposes to both the Police case progression and the Crown Prosecution Service.

1.2.16 It should now be ascertained if the OIC has correctly identified the witness or Victim as being Intimidated. If not then the matter should be referred to the OIC for action, and for information purposes to both the Police case progression and the Crown Prosecution Service.

1.2.17 It should now be ascertained if the OIC has correctly ascertained that the Victim wished to make a Victim Personal Statement (VPS). If not then the matter should be referred to the OIC for action, and for information purposes to both the Police case progression and the Crown Prosecution Service.

1.2.18 If a VPS needs to be updated then the matter should be referred to the OIC for action, and for information purposes to both the Police case progression and the Crown Prosecution Service.

1.2.19 The Detailed Needs Assessment should now be carried out in line with the WMS procedure.

1.2.20 Following the 1st Hearing the W.C.U. will update the witnesses and victims with the result in accordance with the WCU procedure.

1.2.21 The Victim and Witnesses will be updated with the result of any subsequent Court Hearings.

2.0 Procedure Statement & Intentions

2.1 Principle & Scope of Procedure:

2.1.1 Gwent Police is committed to providing a high quality service, which is responsive to the needs and wishes of victims and witnesses of crime.

2.1.2 To this end Gwent Police/CPS will provide a dedicated Witness Care Unit to support the victims and witnesses of crime.

2.1.3 Effective application of the policy and the related procedures will maintain and enhance public confidence in the criminal justice system. This will increase the attendance of victims and witnesses at court.

2.1.4 The arrangements and guidance contained in this document provide a framework for dealing with victims and witnesses all the way through the criminal justice system from point of reporting a crime/incident through to the Court of Appeal with clear guidance at each point.

2.1.5 The Witness Care Unit is involved in a multi agency approach to both Victim and Witness care together with the Crown Prosecution Service, Victim Support and H.M. Court Service.

2.1.6 By adhering to the framework we will ensure:

- That at the point of reporting a crime/incident, all Witnesses and Victims are given a guide to the procedure that will follow.
- That all Witnesses and Victims will be provided with details of a single point of contact.
- There will be an early identification of issues that effect both Witnesses and Victims through a needs assessment.
- That all Witnesses and Victims will receive regular updates as to progress of the either the Investigation or the Court process.
- That all Witnesses and Victims will receive support and guidance at every stage.
- A clear monitoring and audit trail.
- To achieve an increase in the conviction rate.

2.2 Aims of Procedure

- To improve the service to victims and witnesses of crime.
- To increase confidence in the Criminal Justice system
- To ensure all victims are treated in line with the Victims Code of Practice.
- To ensure all victims and witnesses are treated in accordance with the No Witness No Justice minimum requirements.
- To increase victim and witness attendance at court.
- To increase co-operation and information sharing between partner agencies both statutory and voluntary.
- To reduce the number of cracked and ineffective trials.

3.0 Introduction

3.1 Origins/Background Information

In March 2003 the Prime Minister and the Attorney General commissioned a partnership between the Office of Public Service Reform, Home Office, Crown Prosecution Service and the Association of Chief Police Officers in order to establish 5 No Witness No Justice (NWNJ) pilot sites in England and Wales. Gwent was one of those sites.

These pilot areas were “pathfinders” which developed their own approach to witness care based on common principles. These principles included the concept of establishing a dedicated unit for witnesses and victims. The Witness Care Unit is staffed by both Police and Crown Prosecution Service employees in co located offices. They provide support, guidance and information for witnesses and victims, making assessment of their needs and facilitate support in relation to their attendance at court by liaising with voluntary agencies.

The emerging good practice informed the development of the NWNJ Minimum Requirements in 2004.

3.2 Motivators/Driving Forces

3.2.1 The No Witness, No Justice programme produced both the Witness Charter and the Codes of Practice for Victims of Crime.

3.2.2 Both of these documents contain standards of practice on which Gwent Police are assessed by both the Her Majesty's Inspectorate of Constabularies and Local Criminal Justice Board.

3.2.3 To Promote public confidence in the Criminal Justice procedure.

3.2.4 The need to improve the attendance rate of witnesses at Trials.

3.3 The Legal Basis and Legitimate Aims

Witness Care Units are established and its procedures laid down by the following legislation.

- Criminal Case Management Framework 2004
- Criminal Procedure Rules 2004
- Criminal Justice Act 2005
- Domestic Violence, Crime and Victims Act 2004. Section 32 of this Act established the Victims Code of Practice.
- No Witness No Justice minimum requirements.

4.0 Implications of the Procedure

4.1 Financial Implications

There are no additional financial implications with this procedure.

4.2 Human Resources/Training

Line managers will be required to support police personnel to ensure that the aims of this procedure are complied with. Training will be delivered to student officers during initial training.

4.3 Strategic Plan Links

Aiming to reduce crime and the fear of crime.

Contributing to delivering justice in a way which secures and maintains public confidence.

4.4 Diversity

In the application of this procedure consideration must be given to the possible social impact of this procedure on the community. A social impact assessment is a requirement to ensure all issues are considered. This is also a requirement of the Gwent Police Race Equality Scheme. Social impact assessments must be undertaken before and after the application of this procedure.

Under the Race Relations (Amendment) Act 2000 Gwent Police is required to undertake proactive work to meet the General Duty of :

- Eliminating unlawful racial discrimination;
- Promoting equality of opportunity;
- Promoting good relations between people of different ethnic groups.

The General Duty is outlined in Section 71 (1) of the Act, and must be met **in its entirety**.

Monitoring must be undertaken to ensure that there is no adverse impact either positive or negative upon any one particular social group or individual. The results of monitoring must be analysed and be available for publication, and appropriate changes made.

All individuals using this procedure must be aware of the potential impact that this procedure has on the individuals to whom it is applied. The following strands of diversity and their corresponding pieces of legislation must be considered when answering these questions.

- Welsh Language Act 1993
- Race – Race Relations Act 1976
- Race Relations Amendment Act 2001
- Disability - Disability Discrimination Act 1995
- Gender – Sex Discrimination Act 1975
- Equal Pay Act 1970
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006

4.5 Consultation

Police Authority
Chief Officers
Area/Departmental Heads
Superintendents Association
Police Federation
UNISON
Gwent Police Women's Association
Gwent Black Police Association
Gwent Police Disability Network
Gwent Gay Police Network
Freedom of Information Officer

5.0 Human Rights Consideration Certification

5.1 Auditing for potential interference and discrimination

Q1. What articles of the Human Rights Act 1998 may be engaged?

Article 3

Article 6

Article 8
Article 9
Article 10
Article 11
Article 14

Q2. Where individual rights are engaged what is the potential to discriminate against the parties involved?

" In the application of this procedure the Force will not discriminate against any persons regardless of sex, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth or other status as defined under article 14 of the European Convention on Human Rights ".

5.2 Key Human Rights Principles

Q1. What is the legal basis for your procedure?

Section 3.3 refers.

Q2. Does the procedure provide details of what could be considered as a legitimate aim for the potential interference with an individual's rights, through the exercising of this procedure?

Restrictions on the rights protected in articles 8 - 11 in the Human Rights Act will be compatible with the convention only if they are aimed at protecting one of the interests listed in articles 8(2), 9(2), 10(2) and 11(2) respectively. The interest protected are broadly the same and generally include:

1. National Security
2. Public Safety
3. The protection of health or morals
4. The prevention of disorder or crime; and The protection of the rights of others.

Any restrictions relating to human rights will be in accordance with the above principles.

Q3. How are staff made aware of the clearly defined decision making processes?

Section 1.2 refers

Q4. What are the minimum standards of documentation in relation to decision making?

Section 1.2 refers

Q5. How does your procedure provide guidance on the justification for assessment and actions as to whether the action is the least intrusive?

Section 1.2 refers

5.3 Rights, Publication, Audit and Inspection

Q1. Are there any sections of the document which should not be disclosed to the public on the Force Publication Scheme; because they consist of tactical or operational procedures, that would inhibit the apprehension or prosecution of offenders if publicly known, or would compromise the ability of the force to carry out its duties? Please outline the relevant sections that cannot be disclosed.

This procedure can be disclosed

Q2. What rights to make representation and appeal process are available?

Persons who wish to make representations regarding the operation of this procedure will have recourse to both civil and criminal law. There is also the right to use both formal, informal and organisational complaints procedures in respect to the operation of this procedure.

Q3. What internal review and audit process is in place or is proposed?

This procedure has been drafted in accordance with the principles and rights contained within the Human Rights Act 1998. It will be reviewed and continuously assessed in the light of any relevant changes and developments in the application of the Act.

Q4. What external independent scrutiny is recommended?

This procedure document can be scrutinised during internal Force Inspection and Inspection undertaken by HMIC.

5.4 Certification of Compliance

Consideration has been given to the compatibility of this procedure and related policies and procedures with the Human Rights Act; with particular reference to the legal basis of its precepts: the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making process's and outcomes of actions.

5.5 Legal Vetting

There are no issues in this procedure under ECHR which cannot be resolved.

This procedure has been vetted.

6.0 Promotion and Distribution

In order to highlight the existence of this procedure to staff there will be the following :

- General Orders entry following ratification
- Publication on the Force Intranet and internet
- The intranet link is:
Operational Policing
Criminal Justice

7.0 Monitoring / Review

- Pre charge compliance with the Victims code of Practice will be carried out by the Guardian Crime recording system.
- Post charge compliance will be monitored by the Witness Management System.

8.0 Procedure Identification Page

This procedure has been drafted in accordance with the principles of Human Rights Legislation. Public disclosure is approved.

Procedure Title: Witness Care Procedure

Reference: 238/3 b issue 2

Procedure Ownership: Head of CJD

Portfolio/Business Area Owner: ACC

Procedure Written By: CJD Supervisor

Department Responsible: Criminal Justice Department

Procedure Lead: CJD Manager

Links to other Policies: Information Security/Data Protection/Management of Records, The Management of Police Information 2006, Crime Recording, Pocket Books, Race Equality Scheme, Hate Crime, Stops.

Procedure Implementation Date: 29th August 2008 OPG

Procedure Reviewed on Date: 8th September 2011

Next Review Date: 8th September 2013