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Evaluation of young witness support: examining the impact on witnesses and the criminal justice system

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Young people are disproportionately more likely to be victims of crime than adults. The 2004 Home Office Offending, Crime and Justice Survey found that 20 per cent of 10-to-15 year-olds had been the victim of personal theft at least once in the last 12 months (Budd *et al.*, 2005). This is compared with 1.2 per cent of adults (aged 16 and over) in this category in the 2004/05 British Crime Survey (Nicholas *et al.*, 2005). Nationally, the Witness Service – established in 1994, primarily funded by the Office for Criminal Justice Reform, and run by Victim Support – provides a free service in every criminal court to support all witnesses called to give evidence. Since the early 1990s, specialist services provided by a range of organisations (including the NSPCC, Local Safeguarding Children Boards and Victim Support) have evolved through local initiatives in some areas in England and Wales to provide child-focused support and preparation for young witnesses. As a result, their scope varies. Activities may include pre-trial preparation; making home visits; assessing witnesses' needs, abilities and wishes and communicating these to criminal justice agencies; advocacy in promoting the perspective and interests of children; coordinating a multi-agency response; post-trial support; and providing feedback to practitioners and policy makers.

Six specialist young witness schemes were evaluated between February 2005 and February 2006. This study examined the extent to which such schemes add value for young people, their carers and the criminal justice system. It also sought to identify best practice from the range of approaches and procedures employed, using existing National Standards ('Achieving Best Evidence in Criminal Proceedings', Home Office *et al.*, 2002, Appendices F and J) as a benchmark. The information produced may be used to inform future approaches and highlights key factors to be considered when setting up a scheme.

Key points

- The support provided by specialist schemes was well received by young witnesses. Ninety-six per cent of scheme-supported witnesses said the supporter made them feel more confident about going to court. Thirty-four per cent reported that the provision of such support made going to court possible.
- Scheme-supported witnesses received consistently higher levels of support than those in the comparison group (i.e. young witnesses provided with only standard services), and were better informed about what to do when answering questions at court and what might happen during cross-examination.
- Carers of scheme-supported witnesses greatly appreciated the service received: 44 per cent said the supporter made it possible for their child to go to court.
- The study provided evidence of added value in respect of criminal justice system objectives. For example, schemes reported lower rates of young witnesses failing to attend court than are reflected in national estimates.

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- The study demonstrated that the ability of specialist schemes to impact on other objectives (in particular, to reduce the trauma of cross-examination and enable children to give best evidence) was limited by factors outside their scope and influence.
- The full potential of young witness schemes has not yet been realised. Suggested measures to be considered in improving young witness care include providing a more coordinated national approach to encourage procurement of services and consistent availability across all criminal justice areas; updating National Standards to reflect the good practice identified in this report; and addressing factors affecting young witnesses' ability to give best evidence.
- Six essential components of a model young witness service were identified which might be promoted at a national level: terms of reference offering support to all young witnesses in a criminal justice area; updated National Standards providing a comprehensive framework for support services; inter-agency protocols between specialist schemes and criminal justice partners; measures to increase judicial confidence; strengthened Local Criminal Justice Board involvement in improving young witness services; and the development of links between Local Criminal Justice Boards and Local Safeguarding Children Boards.

Methods

This study looked at services provided by six specialist schemes: two managed by Victim Support, two by the NSPCC and two operated by Area Child Protection Committees (now Local Safeguarding Children Boards).

The evaluation was based on the experiences of a non-random sample of 151 young prosecution witnesses aged between five and 17. Of these, 110 received support from one of the schemes and 41 (referred to as the comparison group) had either declined or not been offered support by a specialist scheme but had access to standard services (i.e. Witness Care Units where available¹ and the Witness Service). It was not appropriate or feasible to conduct a matched control study. Differences between the scheme-supported and comparison groups included (see also Table 1 below):

- a greater proportion of scheme-supported witnesses were involved in sexual offences (60%) than in the comparison group (20%);
- more scheme-supported witnesses were involved in a Crown Court case (60%) than in the comparison group (30%).

1. The No Witness No Justice project was in its infancy when this research was undertaken. Witness Care Units were not established in all areas until December 2006

Nevertheless, the findings provide a basis for examining differences in the experiences of young witnesses who receive standard and enhanced levels of service.

Table 1: Characteristics of scheme-supported and comparison group witnesses

	Scheme-supported group (n=110) %	Comparison group (n=41) %
Female	70	59
Those who gave evidence	76	66
Sexual offence	60	20
Victim	73	60
Crown Court case	60	30

The study also drew on interviews with the adult carers of 142 young witnesses and the views of 367 criminal justice personnel (judges, magistrates, prosecutors, police and staff from Witness Service and young witness support schemes), which were obtained through interviews, focus groups and surveys. Drawing on cost information from the scheme that offered the most comprehensive service, illustrative figures were provided to the Office for Criminal Justice Reform on the indicative costs of 42 local schemes covering all criminal justice areas.

Characteristics of the support schemes

The six support schemes were located in five criminal justice areas. Although terms of reference for three schemes envisaged referral of all witnesses (aged up to 17 years) across the criminal justice area, irrespective of court or offence, only one delivered such comprehensive coverage. One of the three other schemes focused on witnesses in Crown Court abuse cases. The remaining two operated within the same criminal justice area: one served only part of the area and the other did not take young witnesses dealt with by police child protection units. All schemes used trained supporters. Four used personnel with relevant work experience and two used volunteers. In the year ending March 2005, 2,076 witnesses were referred to the six schemes, ranging from 83 to 959 per scheme.

Five schemes had an inter-agency protocol with the police detailing how referrals to the scheme should be made. The police referred young witnesses to four schemes at the point of charge; two of these schemes made early personal contact with the witness to assess the need for immediate support. In the remaining schemes, referrals were made once a not guilty plea had been entered.

Arrangements varied for identification of young witnesses whose referral for support had been previously overlooked. One scheme had instituted effective safety net procedures involving the courts. It sent a weekly list of young witnesses to the courts in its area, which, in turn, screened special measures applications to ensure that young witnesses not already known to the scheme were identified. Four schemes followed up with a further offer of support if it was initially declined. Across all schemes, supporters were generally allocated once the defendant had entered a not guilty plea.

The National Standards offer non-statutory guidelines on key characteristics for supporters. They describe the purpose of preparation as helping young witnesses to feel more confident and better equipped to give evidence. Key tasks include assessing witness needs and communicating information to and from the police, CPS and courts; keeping witnesses and carers informed; and ensuring that practical arrangements are made for

the child. The survey of supporters showed that their practices did not always align with the guideline National Standards:

- while 76 per cent always assessed witness needs, only 57 per cent always passed these on to criminal justice personnel;
- 38 per cent did not routinely request information from other agencies;
- only 60 per cent always passed on the witness's wishes about special measures.

National Standards recommend that supporters explain 'the nature of cross-examination': supporters from two schemes did this through 'question and answer' role play on non-evidential matters. The Standards are predicated on the assumption of continuity of support before court and at trial. Scheme policies and practice differed on whether supporters attended court with the witness. Four schemes expected supporters to attend court; however, only 46 per cent of supporters surveyed accompanied all witnesses at the court building on the day of the trial and 38 per cent never attended court with a witness or did so for less than half of witnesses. Home visits are not addressed in the National Standards but four schemes said the supporter always made a home visit; 78 per cent of supporters reported always doing so.

Does young witness support add value for young witnesses?

After their case was over, young witnesses were asked how they felt while waiting to go to court. Seventy-eight per cent of all those interviewed in the scheme-supported group and 73 per cent in the comparison group were worried about going to court. Thirty per cent of scheme-supported witnesses and 16 per cent in the comparison group felt intimidated. Eighty-seven per cent of all those interviewed in the scheme-supported group and 81 per cent of all comparison group interviewees reported symptoms of stress before trial, including self-reported symptoms that were classified as self-harming (e.g. pulling their hair out, abusing alcohol and cutting themselves), panic attacks, flashbacks of the offence, bed-wetting, headaches, eating and

sleep disorders, and depression. Thirteen per cent of children interviewed had received professional help in relation to their stress symptoms. These self-reports occurred across all age groups, offence types and level of court, and rates were nearly as high for non-victims as for victims.

Specialist support was rated positively by scheme-supported young witnesses. Ninety-six per cent of those interviewed said the supporter made them feel more confident about going to court and 34 per cent that such support made going to court possible. Scheme-supported witnesses received consistently higher levels of support than those in the comparison group. This included being more likely to receive a court familiarisation visit (85% versus 29%), having at least one home visit (91% versus 0%), and seeing Young Witness Pack materials (86% versus 20%). Table 2 suggests that scheme-supported witnesses were also better informed about what to do when answering questions at court and what might happen during cross-examination.

Scheme-supported and comparison group witnesses experienced similar levels of difficulty with questioning at court, with 48 per cent of those who testified reporting that they did not understand some questions and 80 per cent reporting one or more symptoms of stress (Hamlyn *et al.*, 2004 reported that 46 per cent of young witnesses said some questions were unclear and 33 per cent had been upset 'a lot' by cross-examination). This suggests that, in the five criminal justice areas in this study, preparation for court was not enough by itself to address all the issues that might impact on children's

ability to give their best evidence. These might include questioning at court that fails to take account of witness needs and communication abilities, lengthy court waiting times, inadequate waiting facilities, witnesses encountering the defendant in or around the court building (a problem avoided where they gave evidence by remote TV link), and not being allowed to be accompanied by a supporter of their choice while testifying.

Five schemes had supported young defence witnesses though few such referrals were received (also the case for the Witness Service). No defence witness was referred for interview during the study. The principle of 'equality of arms' requires that defence and prosecution witnesses have equal access to services. Thirty-three per cent of defence lawyers surveyed were not satisfied that Witness Service or specialist scheme support could be accessed by young defence witnesses.

Does young witness support add value for parents and carers?

All six specialist schemes provided a degree of practical and emotional support to adult carers, although the extent varied between schemes and across supporters. All but one scheme offered support at trial and one scheme recruited volunteers specifically to support parents and carers. The survey of supporters suggested that:

- 93 per cent always supported carers before trial;
- 63 per cent supported carers on the day of the trial.

Table 2: Young witnesses' account of what supporters told them

Topic	Scheme-supported witnesses who said this was discussed	Comparison group witnesses who said this was discussed
	(n=110) %	(n=41) %
They could tell the court if they did not understand a question	89	44
They could tell the court if they needed a break	87	34
They could tell the court if they felt upset	82	32
A lawyer might say they were not telling the truth	79	17
There might be delay on the day of trial	82	17

Adult carers rated highly the services received from specialist schemes:

- 90 per cent of the 103 carers interviewed reported that the supporter made a lot of difference and 44 per cent said the supporter made it possible for their child to go to court;
- 28 per cent stated that there was a point when they thought they would not let their child give evidence (the comparison group figure was 34 per cent); half of these reported that it was the supporter who helped them to continue;
- 81 per cent said they were kept informed of case progress compared to 30 per cent in the comparison group;
- 92 per cent reported having a number to call if they had any questions compared to 51 per cent of carers of comparison group witnesses.

Does young witness support add value to the criminal justice system?

Practitioners indicated that specialist schemes added value in various ways to the criminal justice system. Across focus groups and surveys, the majority of criminal justice personnel (police, CPS, magistrates, district and circuit judges, magistrates' court staff, barristers, solicitors and Witness Service coordinators) believed that preparation for court improved children's ability to give best evidence. They also thought that enhanced support was a significant factor in enabling young witnesses who might not otherwise have done so to attend court.

It was beyond the scope of the study to identify an impact of enhanced support on conviction rates. However, the rates of young witness non-attendance reported by the six schemes were lower than national estimates (Department for Constitutional Affairs, 2005, unpublished).

Supporters had a key role in alerting courts and others to witness needs but their performance in this respect varied. They passed on information to criminal justice personnel on behalf of 62 per cent of scheme-supported witnesses. Routine receipt of information about young witness needs was reported

by 61 per cent of magistrates and district judges and 48 per cent of circuit judges. However, only 19 per cent of magistrates and judges received routine feedback from schemes about what worked well with young witnesses and what was problematic.

Police and CPS focus groups familiar with local young witness schemes agreed that they provided a level of service not available elsewhere in the system (for example, assessing witness needs and wishes, conducting home visits and passing information onto CJS personnel) and relieved other criminal justice agencies of work.

Good inter-agency relationships are crucial to the successful operation of specialist schemes. However, only two specialist schemes were direct members of Local Criminal Justice Board subcommittees; these were also the only two Local Criminal Justice Boards (of the five in the study) that included young witness concerns in their plans for delivering the government's victim and witness priorities. At the time of this study, Witness Care Units were still in national roll-out. These early findings suggested that working relationships between young witness schemes and Witness Care Units were positive, although most were still addressing how to deal with potentially overlapping areas of responsibility. Greater clarity was also needed about the relationship between specialist schemes and the Witness Service.

In some study areas, there was little judicial awareness of the role and contribution of specialist schemes. None of the judges had concerns about pre-trial preparation activities, although a few were uneasy about a scheme's advocacy role (defined in the National Standards as a focus 'entirely on the young person's welfare in preparing for the experience of giving evidence'). Judges and magistrates were also asked whether they would allow young witness supporters to accompany children while giving evidence. The Consolidated Criminal Practice Direction (2001) permits 'an additional degree of flexibility' about who accompanies young witnesses giving evidence by TV link. Judicial attitudes varied from those who thought that giving young witnesses their choice of supporter was likely to maximise the quality of their evidence, to those who only permitted a supporter to

accompany the child in exceptional circumstances or not at all. These findings indicate a need to increase judicial confidence in young witness support. Ways of achieving this might include: clarifying schemes' advocacy responsibilities and the parameters of the support role; and informing the judiciary about National Standards and the contribution of specialist schemes.

A more coordinated national approach to young witness care

The findings of this evaluation suggest that, while there are clear benefits of enhanced support, the full potential of young witness schemes has not yet been realised. Schemes have developed on an ad hoc basis, without national direction and no specialist support is available in many parts of the country. Where schemes exist, the number of young witnesses covered and the approach taken varies widely. A number of measures might be considered to improve on current provision. These include a more coordinated national approach to encourage procurement of services and consistent availability across all criminal justice areas, and updating of the National Standards. The approach should take account of the government's commitment to safeguard and promote the welfare of children (Department for Education and Skills, 2006) and should look beyond provision of pre-trial preparation to address factors concerning young witnesses at court, particularly those that might affect young witnesses' ability to give evidence. While the six specialist schemes increased the willingness and confidence of young witnesses to testify, their ability to reduce the trauma of cross-examination and enable children to give their best evidence was limited by factors outside the schemes' scope and influence. The Commission for Social Care Inspection (2005) has concluded that, although young witnesses need special care, justice system agencies 'have not yet reflected upon what safeguarding means for their work'.

Updated National Standards for young witness support would take into account new criminal justice policies and cover referral; assessment; support and preparation; recruitment; training (including common induction standards for all new entrants to children's services issued by the Children's

Workforce Development Council, 2006; eligibility criteria for special measures; multi-agency training on safeguarding and promoting welfare; and training on child development, communication, child protection, learning or other disabilities, the criminal justice process and the roles and responsibilities of criminal justice organisations); governance; and administration. The accreditation of training for young witness supporters could also be explored.

The study identified a model of good practice for a young witness support scheme incorporating minimum requirements for service provision. It is based on good practice identified across the six study schemes and closely matches one of the specialist services. The model service offers support to all young witnesses in a criminal justice area, with services provided by a single scheme or a consortium working to an integrated plan. It has a full-time manager and a core panel of supporters with relevant work experience (for example, those employed in social care, police, education and health: preferably, those who volunteer their own time or whose employers do so). This does not exclude use of 'lay' volunteer supporters, particularly those with criminal justice experience, provided they are recruited, trained and supervised appropriately. Indeed, an area-wide consortium may draw on different types of service provider, as long as they are trained to work to the same standards. The panel must be large enough to provide flexibility and resilience in coping with fluctuations in workload. The scheme must have access to a range of skills (for example, to work with victims of abuse, very young children, those with learning or other disabilities and children from ethnically diverse backgrounds). A large enough panel of supporters with the necessary skills will ensure the availability of resources to meet the assessed needs of young witnesses.

The six components of a model young witness service:

- terms of reference offering services to all young witnesses within the criminal justice area;
- updated National Standards to provide a comprehensive framework for support services;

- measures concerned with improving judicial confidence such as clear terms of reference outlining the scope of the scheme's advocacy role, and a complaints procedure;
- strengthened Local Criminal Justice Board involvement in improving services for young witnesses by distinguishing young witnesses in targets and priorities and representation of young witness schemes at LCJB level;
- links between Local Criminal Justice Boards and Local Safeguarding Children Boards;
- inter-agency protocols between specialist schemes and criminal justice partners, including model agreements governing the relationship between schemes and Local Criminal Justice Boards; between schemes and Witness Care Units; and between schemes and the Witness Service.

Conclusion

The specialist services provided by young witness schemes have added value for young witnesses, their carers and the criminal justice system. The findings of this evaluation suggest that the full potential of young witness schemes has not yet been realised, and that issues outside of the scope and influence of schemes may also affect the extent to which young witnesses can give their best evidence. A number of possible areas for improvement have been identified. These include consideration of options for providing a more coordinated national approach that ensures services are consistently available to all young witnesses.

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