



# Victims & Witnesses Policy

PUBLIC  
PROSECUTION  
SERVICE

Independent, Fair  
and Effective



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# **Victims & Witnesses Policy**



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# Abbreviations used in this document

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<b>CJINI</b>	Criminal Justice Inspection for Northern Ireland
<b>CJSNI</b>	Criminal Justice System of Northern Ireland
<b>NICtS</b>	Northern Ireland Court Service
<b>NIO</b>	Northern Ireland Office
<b>NIPS</b>	Northern Ireland Prison Service
<b>NSPCC</b>	National Society for the Prevention of Cruelty to Children
<b>PBNI</b>	Probation Board for Northern Ireland
<b>PPS</b>	Public Prosecution Service for Northern Ireland
<b>PSNI</b>	Police Service of Northern Ireland
<b>VSNI</b>	Victim Support Northern Ireland
<b>WS</b>	Witness Service
<b>YWS</b>	Young Witness Service

# Foreword

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The Public Prosecution Service (PPS) is very much aware of the importance of victims and witnesses in ensuring the criminal justice system operates effectively. Victims and witnesses play a vital role in co-operating with an investigation and in giving evidence at court. Without this assistance many cases would not be detected or prosecuted.

Being the subject of, or witnessing a crime is often a traumatic experience. The PPS recognises that engaging with the criminal justice system can, in some cases, add to the stresses created by the experience. It is vital therefore that victims and witnesses are given the support, information and services they need to minimise the disruption and upset caused to them, while enabling them to give evidence in an effective manner.

This policy document sets out the services victims and witnesses can expect to receive from the PPS. These services are the PPS's commitment to giving victims and witnesses the type of assistance and information they require to ensure their effective participation in the criminal justice system.

The PPS works in partnership with other criminal justice agencies to improve the quality, accessibility and co-ordination of the services delivered. In this context, the PPS acknowledges the hard work and professionalism of the voluntary agencies with whom we engage to provide services to victims and witnesses.

The PPS is committed to continuous improvement and to assist this process we will survey victims and witnesses to gauge satisfaction levels with our service delivery. We will act upon what we learn.

Our aim is to maintain the highest standards of service to the people of Northern Ireland.



**W R JUNKIN**

**Deputy Director of Public Prosecutions for Northern Ireland**

**March 2007**

# Implementation of the Public Prosecution Service

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## **VISION**

*To deliver an excellent service to the community in an independent, fair and effective manner, working in partnership with others in the criminal justice system, valuing and developing our staff, and thereby providing a prosecution service in which the people of Northern Ireland can have confidence.*

The PPS is the principal prosecuting authority for Northern Ireland.

The PPS was launched on 13 June 2005. The new Service was established by the Justice (NI) Act 2002, based on the recommendations of the Criminal Justice Review. The Act sets out the statutory duties and the legislative framework within which PPS provides its services. The PPS is to assume responsibility for all criminal cases. The PPS's key function is to make decisions as to prosecution or no prosecution in all criminal cases. Whilst the PPS works closely with the police and other criminal justice agencies, its decisions are impartial, based on an independent and professional assessment of the available evidence and the public interest.

While the PPS was established in 2005, the new PPS structures are not yet fully in place across Northern Ireland. However the rollout of the Service has been ongoing and substantial progress has been made. Youth cases are rolled out in all Regions across Northern Ireland and it is anticipated that PPS will be fully rolled out by September 2007.

The services available in the PPS regions include enhanced services for victims and witnesses. A significant aspect of this is the establishment of specialist Community Liaison Teams in each region. These teams assist in providing information to victims and witnesses, checking witness availability and, in cases where victims request it, make referral to other specialist support organisations such as NSPCC or Victim Support NI. In addition to the establishment of Community Liaison Teams, the treatment of victims and witnesses will be considered at each stage of the prosecution process.

# 1

## Introduction

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### 1.1 COMMITMENT TO VICTIMS AND WITNESSES

This document explains the services and standards of service that victims and witnesses will receive from the PPS.

PPS is committed to providing effective services to victims and witnesses. It recognises that improving services and support for victims and witnesses and ensuring their needs are met is integral to the effectiveness of the criminal justice system.

Best practice for the proper treatment of victims and witnesses at every stage in the court process was set out by the DPP in its 1997 public document entitled 'Victims, Witnesses and the Prosecution'. This practice has been built upon by the PPS. It has evolved over the last 9 years to increase and develop the services provided and to take account of new legislative measures. This has happened at a time of major organisational change for the PPS, as it expands to provide a regional service taking on all prosecutions in Northern Ireland.

The existing statement of best practice; the expansion and refinement of those services; legislative changes; and organisational changes provide the basis on which the new Victims and Witness Policy has been formulated.

PPS has also reacted to external drivers for enhancing services, mainly arising from the Criminal Justice Review, and more recently, the Criminal Justice Inspection's Report on 'Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System of Northern Ireland'. The fulfillment of the recommendations made in that report has involved increased co-operation with other organisations involved in the criminal justice system: this is welcomed as it can only serve to enhance the provision of services to victims and witnesses.

In addition to developing PPS procedures and services, PPS is committed to working effectively within a multi-agency approach to ensure that the best possible services are provided to victims and witnesses. The PPS is represented on a range of interagency groups. We are committed to working with colleagues in the criminal

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justice system and with voluntary organisations to help improve service delivery. We are committed to training our prosecutors and all staff to ensure the effective implementation of our policy.

The PPS is committed to observing international human rights standards, and is a member of the International Association of Prosecutors and promotes the standards of professional responsibility adopted by that Association. *'Prosecutors shall, in accordance with local law and the requirements of a fair trial, consider the views, legitimate interests and possible concerns of victims and witnesses, when their personal interests are, or might be affected, and seek that victims and witnesses are informed of their rights; and similarly seek to ensure that any aggrieved party is informed of the right of recourse to some higher authority/court, where that is possible.'* (IAP Standards para 4.3.b)

The PPS is also concerned with ensuring equal treatment of all and respecting diversity. PPS is committed to an ongoing programme of training for staff. We plan to publish our Equality Scheme later this year.

The PPS's policy on victims and witnesses must be seen in the context of the role of the PPS in the Criminal Justice System. The PPS is an independent prosecuting authority. Decisions as to prosecution are taken having regard to whether the evidence affords a reasonable prospect of conviction and whether it is in the public interest to prosecute. The PPS is required to have regard to the overall public interest and not only the particular interests or concerns of any one individual.

The decision as to whether or not to prosecute, and if so, for which offences, is our responsibility, not that of the victim or the police. However the views of, and the impact on, the victim are an important consideration.

We work with a number of organisations, such as VSNI and NSPCC which offer support to victims throughout the process from reporting a crime, to giving evidence at court and afterwards.

Special measures can be used to help a victim or witness give evidence. (These special measures are explained in chapter 5.) We will consider every case carefully

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and sensitively. Our decisions will be objective but made within a framework which promotes support for victims and keeps them informed.

As part of the general review of the Criminal Justice System, the Chief Inspector of the CJINI reported on 'Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System of Northern Ireland'. PPS, along with all other Criminal Justice agencies contributed to this review. It is hoped that the Chief Inspector's Recommendations will make a real difference in ensuring that victims' needs are recognised and met where possible within the CJSNI. This involves continuing and increased inter-agency contact and co-operation. PPS is committed to working with our partner organisations to help meet victims' needs.

Recent developments on this front include the following:

PPS has entered in to Protocols with other criminal justice agencies to enhance services available to victims and witnesses: with PSNI to ensure effective transfer of information in investigation files to expedite effective informed decision making; with Causeway\* to enable the decision making process to be expedited by increased use of IT to ensure effective information transfer between police & prosecution, and also the Probation Board and Forensic Science NI. The next phase of the Causeway project will enable the progress of cases at court to be expedited by increased effectiveness of information transfer between PPS and NICtS. PPS has also entered into a Protocol with Probation Board and PSNI to improve the effectiveness of the provision of information available to victims where the perpetrator has received a probation supervised order as a sentence. PPS is currently working with Victim Support NI, NSPCC, and PSNI to develop a protocol for improved information transfer for referrals to witness support services. PPS has also contributed to discussions regarding the proposal to establish a 'One Stop Shop' to facilitate information provision to victims and witnesses.

PPS has also entered into protocols with the youth conference service which include the provision of information to victims where the perpetrator has received either a Diversionary Action plan (via PPS) or a Youth Conference Order (via the courts). This is explained further in chapter 2.

*\* The Causeway programme is a joint enterprise by the criminal justice organisations in Northern Ireland which aims to improve their performance by sharing information electronically.*

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PPS has established a new website and published its policies. A new policy on prosecuting cases of Domestic Violence has recently been published. This document explains the way we prosecute cases of Domestic Violence, including avoiding unnecessary delay and helping victims and witnesses give evidence at court.

## **1.2 CODE FOR PROSECUTORS**

A new Code for Prosecutors incorporating a Code of Ethics was published in June 2005, following a period of consultation. This represents a commitment to greater openness and accountability to enhance public confidence in the effectiveness of the prosecution service.

The Code sets out the general principles to be applied in decision making and outlines in detail the Test for Prosecution, as well as guidelines for the conduct of criminal prosecutions and other information about what we do and how we work. It includes a section on services for Victims and Witnesses.

The Code for Prosecutors, the Domestic Violence Policy and this Victims and Witnesses Policy, along with other PPS publications are available on the PPS website ([www.ppsni.gov.uk](http://www.ppsni.gov.uk)) or hard copies can be obtained by contacting PPS directly. The contact details for PPS are on the back cover of this booklet.

## **1.3 DEFINITIONS**

### **Who is a Victim?**

In this Policy, a Victim includes any person who has suffered as a result of a criminal offence which has been reported to the PPS by the police or other investigatory agencies. This will include those who have suffered injury or threat thereof to their physical or mental well being or damage to their financial or proprietary interests, and will include the family of the victim where an offence results in death.

### **Who is a Witness?**

As we are a prosecuting authority, our services are available for prosecution witnesses. These services are not applicable to defence witnesses. In this Policy, the term 'witness' refers to any member of the public who may be, or has been,

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called to give evidence on behalf of the prosecution. In many cases a victim will also be a witness. Generally, it will not include witnesses who give evidence as professional experts or in the course of their employment, for example doctors and police officers.

# 2

## Prosecution Decisions

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The PPS policy on victims and witnesses is best set out in the context of the work of the Service, from receipt of an investigation file from police, to case disposal.

In this context, the first step is to make a decision as to prosecution. (The PPS may have an earlier involvement in terms of giving pre-charge or prosecutorial advice to police but this will not usually involve contact with the victim or witness.)

Police gather all the available evidence and report the case to PPS. We will consider the evidence carefully and make our decisions as quickly as it is possible.

The Code for Prosecutors gives guidance on how PPS make decisions about whether or not to prosecute.

Although the evidence in respect of a particular criminal offence may be sufficient to provide a reasonable prospect of conviction, the PPS has also to decide whether prosecution is required in the public interest. In this regard, the proper interests of the victim or witness will be taken into account along with other relevant factors to determine whether or not prosecution is required.

### **2.1 THE TEST FOR PROSECUTION**

Prosecutions are initiated where the Test for Prosecution is met. This is a 2 stage test as follows:

- i. The Evidential Test – the evidence which can be adduced at court is sufficient to provide a reasonable prospect of conviction; and
- ii. The Public Interest Test – prosecution is required in the public interest.

The Public Prosecutor must analyse and evaluate all the material submitted in a thorough and critical manner. The Evidential test must be met before the Public Interest test is considered. Each of these stages must be considered separately and passed before a decision to prosecute can be taken.

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## **2.2 THE EVIDENTIAL TEST**

PPS determine whether there is sufficient evidence to provide a reasonable prospect of conviction against each defendant on each charge.

A reasonable prospect of conviction exists if, in relation to an identifiable individual, there is credible evidence which the prosecution can adduce before a court upon which evidence an impartial jury or magistrate or judge properly directed in accordance with the law, may reasonably be expected to find proved beyond reasonable doubt the commission of a criminal offence by the individual who is prosecuted. It may be necessary in some cases to consult with victims or witnesses before a decision to prosecute can properly be made.

## **2.3 THE PUBLIC INTEREST TEST**

Broadly, the presumption is that the public interest requires prosecution where there has been a contravention of the criminal law. This is the starting point for consideration of each case. In some instances the serious nature of the case will make the presumption a strong one but there are circumstances in which, although the evidence is sufficient to provide a reasonable prospect of conviction, prosecution is not required in the public interest.

When considering the public interest test, an important factor we take into account is the consequences for the victims of the decision whether or not to prosecute, and any views expressed by the victim or the victim's family. However, there may be cases where the balance of the public interest weighs in favour of prosecution notwithstanding the views of the victim or the victim's family. In such cases it may be necessary to compel the attendance of the victim to give evidence.

Further examples of public interest considerations which will be weighed when considering the public interest may be found in the Code for Prosecutors.

## **2.4 DIVERSIONARY OPTIONS**

If the test for prosecution is met, the PPS may decide that as an alternative to

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prosecution, the public interest favours diversion. This means that a suspect, usually a young person or someone who does not have a record of offending, who has admitted the offence, will not be prosecuted but will be given an informed warning, a caution or be made the subject of a youth conference.

Where a youth conference is directed, the victim of the offence will be contacted, and if willing to participate will be supported by a youth conference coordinator who will visit them at home on a number of occasions to prepare them for the conference. This preparation includes the showing of a DVD of a 'mock' youth conference in action as well as the provision of a variety of leaflets explaining youth conferencing. Many youth conferences are also held at a time and place convenient for the victim. Also victims are encouraged to bring supporters to the conference. These may be family or friends. Also if the victim is under the age of 18, a family member is encouraged to come along as support. If this support is not available a youth advocate from VOYPIC or Opportunity Youth will be invited to act as support for the young person.

Other facilities may be available to allow the victim to participate in the youth conference, for example by live-link or telephone or two way mirror. If they do not wish to attend a youth conference face to face, a victim is encouraged to give their views by a written or taped statement or indeed they can be videotaped if they wish.

The purpose of the conference is to draw up a plan of action to be followed by the young offender to restore the balance of the harm caused and to address the future behaviour of the young person. At the youth conference the victim to the offence may explain, in the presence of the young offender, the effect which the offence has had on the victim. The young offender will have the opportunity to apologise for the injury, hurt or loss which has been suffered. All victims will be kept informed by the coordinator of the outcome of a youth conference in which they were involved if they so wish. Further details of youth conferencing may be found on the Youth Justice Agency website at [www.youthjusticeagency.ni.gov.uk](http://www.youthjusticeagency.ni.gov.uk)

In less serious cases involving a young person a caution may be administered by police at the direction of the PPS. In such a case there is also a restorative element and the victim may be invited to attend although the process does not lead to a formal plan.

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## Consultations

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In some cases it will be necessary to consult with a witness before a decision as to prosecution can properly be made. When a prosecution is brought the prosecutor will normally consult with the witness before the trial. Depending on the nature of the evidence to be given this may be on the day of the trial or on an earlier date.

PPS will ensure that consultations are properly organised and conducted in a professional manner with sensitivity, courtesy and understanding.

The first face-to-face point of contact between PPS and a victim or witness is often at a consultation. The witness will not be left to find their own way to the consultation room. PPS will arrange with the investigating police officer to bring the witness to the consultation room having collected them from home or a police station, or location acceptable to the witness. If two or more witnesses travel to the consultation together, the police officer will be asked by PPS to remind the witnesses not to discuss details of the case, so as to avoid any allegation of collusion.

The consultation will be held, where possible, in a properly equipped consultation room. It will be held at a time and venue to take into account the comfort and convenience of the witness.

At the beginning of the consultation the Public Prosecutor will explain to the witness the identity and role of all persons present and the purpose of the consultation. Where it is a pre-direction consultation, it is essential that the witness be told that no decision has yet been made regarding whether or not a prosecution will be brought.

The consultation will be conducted in a manner appropriate to the case and where necessary the manner of questioning employed and the purpose of the questions asked must be explained to the witness.

The witness will be treated with sympathy, sensitivity, courtesy and understanding at all times, notwithstanding that it may be necessary to ask forceful or probing questions.

A police officer will remain present throughout the consultation. In some cases, for example in the case of a female victim where the consultation requires discussing matters of a

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personal nature, the Public Prosecutor will consider whether it is appropriate to have another female present, if the victim would otherwise be the only female present. In such cases, it may be appropriate to ask a female police officer to attend also.

The Public Prosecutor should also consider whether or not it is appropriate for a parent to accompany a child witness: this will depend on the circumstances of the case, including an assessment of whether the child is likely to feel supported or inhibited in the presence of a parent.

A victim or witness may wish to have a relative or friend present. Whether or not this is appropriate will depend on all the circumstances but, provided the relative or friend is present only to give support to the witness, their presence may be allowed.

A witness is entitled upon request to arrange to have a solicitor present during the consultation to advise.

Legal or evidential difficulties will be explained to the victim or witness and the Public Prosecutor will inform them that they will be informed by letter as to whether a prosecution will be brought and an indication given as to when this is likely to be done.

Where Counsel has been briefed they will conduct the consultation, however the PPS lawyer responsible for the case will introduce the consultation and make it clear that the role of Counsel is to advise.

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## Taking account of victims views

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PPS is committed to ensuring that the interests of victims are considered at every stage of the criminal process:

### **4.1 PROSECUTION DECISIONS:**

Decisions as to prosecution or diversion take into account the interests of victims in weighing the public interest. This is outlined in more detail in Chapter 2.

### **4.2 BAIL:**

The views of the victim are also an important factor considered in the PPS's attitude to bail. Whilst the grant or refusal of bail is a matter for the Court, the PPS will bring all relevant matters to the Court's attention including information which indicates that there is a risk of interference with the victim or a witness. The Court can impose conditions of bail, or remand the defendant in custody. The Magistrate or Judge will make a decision about bail after hearing from the prosecution and defence. In certain circumstances there may be an appeal against a decision to grant bail.

### **4.3 PROCEEDING WITH A LESSER CHARGE:**

In some cases a decision may be taken not to proceed with the original charge directed or to accept a plea to a lesser offence. This may arise, for example, if there is a change in the evidence available or a significant public interest consideration has arisen. When considering whether this should be done, PPS will, whenever possible, and where the victim wishes, explain to the victim why this is being considered and listen to anything the victim wishes to say. However, sometimes these issues have to be dealt with relatively quickly at court in circumstances where it is not always possible to speak to the victim.

### **4.4 SENTENCING:**

In sentencing, the Court must decide on the appropriate sentence from a broad range of penalties. We will correct any misleading or inaccurate information given by the Defence and outline any aggravating features that the court should take into account, such as a sectarian or racist motive, or a domestic violence situation.

A statement may be sought regarding the effect a crime has on a victim. In this way, the courts can better understand not only the crime but the effect it has had on the victim as an individual. These statements can be taken into account by the courts when a defendant has been convicted and is being sentenced.

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Victims will be informed in cases where there is a reference by the Attorney General ('AG') against an unduly lenient sentence and their views taken into account where appropriate. The AG has power to seek leave from the Court of Appeal to review a sentence which he considers to be unduly lenient. The PPS may bring a case to the attention of the AG for him to consider whether to refer on the grounds that the sentence imposed is unduly lenient. An unduly lenient sentence is one that falls outside the range of sentences that a Judge, taking into account all relevant facts, including guidance on sentencing from the Court of Appeal, could reasonably consider to be appropriate. It is only if the sentence falls entirely outside the range of sentences that could reasonably be considered appropriate that it can be considered unduly lenient.

#### **4.5 APPEALS:**

The PPS may appeal on a point of law any decision of the Magistrates' Court by requesting that the case is 'stated' by the Magistrate. Such appeals from the Magistrates' Court will be heard in the Court of Appeal.

The PPS may seek leave to appeal any decision of the Court of Appeal to the House of Lords if it is certified that a point of law of general public importance exists.

Victims will be informed of appeals on points of law, and their views taken into account where appropriate.

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## Services to victims and witnesses

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PPS is committed to providing the best possible services to victims and witnesses, from the point that PPS assumes responsibility for a case until the case is disposed of. It has implemented specialist Community Liaison Teams to provide pro-active information and support service to victims and witnesses. It has also worked closely with other agencies to ensure that information provision schemes work effectively. However, it must be noted that for reasons of confidentiality and other legal restrictions it is not possible to release all case-related information that a victim or witness may wish to receive.

### 5.1 SERVICES BEFORE A CASE REACHES COURT

#### Provision of information

Whilst the law does not require victims to be informed about the proceedings and the services available to them, PPS is committed to ensuring that victims are kept informed of the progress of the case in which they are involved.

- Victims are notified in more serious cases, when a file has been received from police.
- Victims are notified in all cases when a decision has been made as to prosecution or no prosecution.
- Victims are also kept informed of the progress of the case at key milestones in the prosecution process.
- In each PPS region, dedicated teams of specially trained staff, 'Community Liaison Teams', provide an information line to assist with any queries a victim (or witness) may have. Contact details are on page 35 of this document.
- PPS offers referrals to specialist organisations where the victim or witness consents. Referral can be made to Victim Support NI or NSPCC as appropriate. These organisations can provide emotional and practical support and information. They also run Witness Services, which are explained later in this Chapter.
- Victims are notified by PPS of the outcome of the prosecution.

#### Dates for hearing

Regard will be had to the convenience of witnesses when the date is fixed for a contest or trial. Witnesses will be contacted and consulted about what dates they are available to give evidence.

An invitation to attend the court will be sent by PPS to the witness and they will

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be asked to return an enclosed form indicating their intention to attend. A leaflet explaining the support available from the Court Witness Service will be enclosed with this letter.

Every attempt will be made to arrange a date that is convenient to witnesses to attend court to give evidence and they will be given as much notice as possible when the date is fixed.

Witnesses will also be notified of the date of an appeal against conviction to the County Court or Court of Appeal as soon as possible.

### **Avoiding Unnecessary Delay**

We are currently working with our criminal justice partners to improve the progress of cases through the criminal justice system. Our Community Liaison Teams are responsible for ascertaining witness availability in consultation with the investigating officer of the case. This is checked in advance of cases being listed for contest. As a result, trials are more likely to go ahead on the date fixed, without the need for adjournments. Adjournments may also be sought by the Defence for a variety of reasons, for example the availability of defence witnesses and time needed to prepare their case. The decision in respect of any adjournment is ultimately a matter for the Magistrate or Judge.

## **5.2 SERVICES AT COURT**

### **Meeting the Prosecutors**

The Prosecutor will introduce themselves to the witnesses prior to the contest or trial and answer any queries they may have about what to expect in court.

In conjunction with NI Court Service, wherever possible, we will try to ensure that separate accommodation facilities are made available for prosecution witnesses so that they can wait in an area separate from the defendant and his/her witnesses and family and avoid contact with them.

A victim will also be offered the opportunity to go to the designated Witness Service waiting area, where one is available. This is a room separated from the public waiting area, where the victim will not risk encountering the defendant.

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A witness who has made a written statement will be allowed to read that statement before giving evidence to refresh his or her memory. Where the evidence has been recorded on video and is to be used as evidence-in-chief, arrangements can be made for the witness to refresh his or her memory by watching the video recording in advance of the hearing.

The Prosecutor will apply to the court for the release of a witness who has given evidence and who is no longer required.

Where the accused changes his plea to guilty, this will be explained to the witness who should then be released as soon as possible.

If the trial does not proceed for the offence originally directed this will be explained to the victim and anything the victim says will be considered.

If the victim or witness has any questions after the contest or trial the Prosecutor will attempt to answer these queries, and also explain the verdict or the sentence imposed.

For there to be a conviction in the criminal court, the prosecution has to prove the defendant's guilt beyond a reasonable doubt. This is a very high standard of proof and there are many reasons why a defendant may not be convicted. Witnesses should not assume that a defendant has been acquitted because their evidence has not been believed.

The victim is often the key witness in any criminal case. Unless the defendant pleads guilty it will usually be necessary for the victim to give evidence at court. We recognise that many victims, and witnesses, will find this a traumatic experience. Assistance and support is available from a number of organisations and PPS can refer victims or witnesses to them for assistance if this is requested.

In some cases the court may agree to allow a witness to give evidence with the help of special measures. Legislation (the Criminal Evidence (Northern Ireland) Order

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1999) has been implemented to ensure that in appropriate cases children or other vulnerable and intimidated victims and witnesses have these special measures available to them to assist them in giving their evidence as effectively as they can. These are explained later in this Chapter.

### **WITNESS SERVICE AND YOUNG WITNESS SERVICE**

*Witness support will be available before, during and after the trial to help keep victims and witnesses informed and supported. There are two witness support services available in courthouses in Northern Ireland: one for adult witnesses (the Witness Service); and one for younger witnesses, under the age of 18 (the Young Witness Service).*

In September 2003 Victim Support Northern Ireland ('VSNI') launched the Witness Service ('WS') and the NSPCC launched the Young Witness Service ('YWS') in all Crown Courts. The services aim to support victims and prosecution witnesses before, during and after the experience of attending court to give evidence.

Both the Criminal Justice Review and the Criminal Justice Inspection in their recent Report recommended that the witness services be developed to cover all courts.

Phased implementation of WS is underway to roll out the service to all Magistrates', County and Youth Courts across Northern Ireland. Piloting of the YWS in specific Magistrates'/Youth Courts is soon to begin.

Referrals to the Witness Service are made with the consent of the victim or witness. Because it is important that the referral to the Witness Service is made as far in advance as possible, in order that pre-trial support can be offered and delivered in an effective manner, PPS will take steps to make the referrals as soon as possible.

#### **i) Witness Service**

The aim of the WS is to support victims and prosecution witnesses, along with their families and friends to deal with attending court and giving evidence. The WS normally contact the victim or witness before the court hearing to offer its services. Trained volunteers offer confidential services free of charge, including:

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**Pre-trial support and preparation:**

- The opportunity to talk to someone;
- A pre-trial familiarisation and informative visit to court; and
- Information on court layout.

**Support during the trial:**

- A quiet place to wait during their time in the court building;
- Accompaniment into the courtroom if appropriate;
- Preparation for a possible verdict and other potential outcomes;
- Practical help, for example, assistance with expenses forms;
- Support and practical help for any persons accompanying witnesses; and
- Access to those in a position to answer specific questions about their case.

**Support following the trial:**

- An opportunity to talk about the experience of giving evidence following the case; and
- Referral onwards for further help if appropriate.

**The WS does not:**

- Discuss the details of the case with witnesses; and
- Provide transport to and from Court for witnesses.

**ii) The Young Witness Service**

The NSPCC Young Witness Service ('YWS') is a free, independent and confidential service, provided by a team of social work staff and trained volunteers. The service offers support to young witnesses and their parents/ carers before, during and after any trial. PPS will make referrals to YWS where consent is given to do so.

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**The services YWS offers include:**

- Explaining the court layout and what happens at court;
- A visit to see the court before the trial;
- Trying to help with any worries about going to court;
- Showing young witnesses ways to stay calm;
- Providing support at court for families and supporting the young witness in the TV link room or the courtroom;
- A quiet and safe place to wait during their time in the court building;
- Preparation for a possible verdict and other potential outcomes;
- Support at sentencing;
- Making sure that the Police, the Prosecution, the Court and lawyers are aware of the needs and wishes of the young witness;
- Advice to parents and carers on how best to support their child;
- An opportunity to talk about the experience of giving evidence following the case; and
- Onward referral to help from other agencies.

YWS is independent and does not talk to young witnesses and their parents or carers about evidence in the case.

The Witness Services rely very much on PPS for referrals and case information (although, especially in the case of young witnesses, the referral may already have been made at an earlier stage in the case). Interim arrangements have been agreed and put in place to ensure timeliness of referrals and that appropriate information is passed to the witness service. However, when full rollout has been achieved, a new Protocol will be entered into between PPS, Victim Support and NSPCC to reflect the finalized arrangements.

**Special Measures**

In many cases the witness will also be a victim. Special measures are available to both victims and witnesses.

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Statutory provisions are contained in the Criminal Evidence (Northern Ireland) Order 1999 which aim to assist vulnerable or intimidated witnesses give their best evidence in court.

If a witness is 'vulnerable' or 'intimidated', legislative provisions exist to provide special measures for that witness giving evidence; such as having their evidence-in-chief video-recorded and used at trial; having their cross-examination conducted via live TV link, from a room outside the court room; screening from the defendant; removal of wigs and gowns by lawyers and the judiciary; and aids to communication.

Prosecutors are trained in these special measures so that applications are made to the court in all cases where the witness comes within the definitions of vulnerable or intimidated. The court then makes the decision about whether to grant the special measures.

The legislation makes special provision for child witnesses. Child witnesses will have a video-recorded statement admitted as their evidence-in-chief and will give further evidence or be cross-examined via a live TV link.

In summary, special measures are available to help the following witnesses:

### **Vulnerable Witnesses**

These are defined as:

- Children under 17 years; and
- Witnesses, the quality of whose evidence is likely to be diminished by incapacity, such as physical or mental disorder; or

### **Intimidated Witnesses**

These are defined as:

- Witnesses whose evidence is likely to be affected because they are afraid or distressed about giving evidence.

Victims of sexual crime are presumed to be eligible for special measures if they want them and if they satisfy the statutory criteria.

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PPS ask the court to allow the appropriate measures in all cases in which they are available and required. The granting of them by the court is not automatic and it is the Resident Magistrate or the Judge who makes the final decision. The evidence in respect of the victim or witness's fear or distress in this context may be provided by the police officer in charge of the case or a Doctor.

Ideally, early decisions should be taken about special measures to assist victims and witnesses. However, where there is a change of circumstances it is possible to apply at a later stage in proceedings.

### **Other Measures**

In addition to special measures, other measures will be used by the PPS where appropriate to reduce the stress or trauma of victims and witnesses:

These include –

- Applying to the court to withhold the name of the witness.
- Removing the address of a victim or witness from the papers to be disclosed to the defence where that address is not material to an issue in the case.
- Seeking to agree witness statements with the defence so that the witness need not attend in person.
- Directing the attendance of only those witnesses who are essential to prove the case.
- In some limited circumstances the law allows us to read the witness's statement in court instead of that witness having to give oral evidence. This is a decision for the court and it will only be allowed where certain criteria are met. It may be difficult in some cases to satisfy the court that this is appropriate as it means that the defence cannot cross-examine that witness.

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- Ensuring that those responsible for listing cases have the necessary information in relation to witness availability and convenience.
  - Applying to the court for compensation where appropriate – the prosecutor will fully carry out his responsibility under article 14 (c) of the Criminal Justice (NI) Order 1994 to make representations regarding compensation where appropriate, relating both to the appropriateness of compensation and to quantum.
  - Informing the court that any mis-statement of fact in the defence plea in mitigation which impacts adversely upon a victim or witness is not accepted by the prosecution and if necessary invite the court to hear evidence on those facts.
  - Furnishing the court with up-to-date medical or other reports or information in relation to victims of violence or sexual offences.
  - In some cases, for example those involving young people, the media are prevented by law from reporting details which may lead to the identification of persons involved. In other cases, the law allows us to apply for an order preventing the reporting of certain details of witnesses in the media that may lead to their identification. The court must follow a specified procedure when considering an application and must determine whether a witness is eligible and whether the 'reporting restriction' will be likely to improve the quality of the witness's evidence or the level of the witness's co-operation. Where an Order is made, the effect will be that no matter relating to the witness during his or her lifetime shall be included in any publication if it is likely to identify him or her as a witness to proceedings.

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### **Disabled Access**

Where a person with a disability is a victim or a witness in a case, PPS, where they are made aware of the needs of the individual, will make appropriate arrangements to facilitate that person's access to PPS offices if they are required to attend a consultation.

When the case goes to court, PPS will work in conjunction with NI Court Service to make the necessary arrangements to ensure ease of access for wheelchair users, or persons with other disabilities who need assistance in accessing the court to give evidence.

### **Interpreter provision**

In recent years there has been a significant increase in the number of people in Northern Ireland who do not speak English as their first language. This has required public services to make improved arrangements for providing interpreting and translating services.

In the case of victims and witnesses for whom English is not their first language, or who otherwise have difficulty with communication, PPS will seek advice from police as to their capability to give and understand oral evidence in English or whether the witness requires the use of an interpreter. PPS will attempt to ensure that the interpreter engaged is familiar with the particular dialect or regional variation of the language which the witness uses.

In circumstances where English is not the first language of the victim or witness, the PPS will consider carefully whether or not it is necessary to hold a consultation where the evidence of that victim or witness is likely to be central to the prosecution case.

PPS is working with police and NICtS to improve the provision of interpreters at court. At the investigation stage, the police will make arrangements for interpreter services; when the case goes to court, the PPS and police will work jointly to ensure an interpreter is available for the first court appearance, thereafter NICtS will arrange for the interpreter to be present at court. We will make sure that appropriate arrangements are made to have an interpreter available for a prosecution witness for the court proceedings when one is needed.

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### **Notification of Outcome**

Victims are informed in writing by PPS of the outcome of the prosecution.

In addition two separate Victim Information Schemes have been implemented managed by the Probation Board and the Prison Service. These are explained below.

### **Victim Information Schemes**

#### **(i) Prison Service – Victim Information Scheme**

The Prison Service has introduced a Victim Information Scheme which enables a victim to find out when the offender in the case they were involved in is due to be released from prison at the end of their sentence, or whether they have been given some temporary release from prison.

A victim may also be able to make representations to the prison authorities about an offender who is eligible for temporary release.

Participation in the Scheme is entirely voluntary. A victim does not have to receive this information and they can opt out of the Scheme at any stage if they change their mind. If a Victim wishes to receive information about a prisoner's release date or to contribute to the temporary release process they should contact the NIPS Victim Information Scheme directly. The contact details are at the back of this document.

#### **(ii) Probation Board – Victim Information Scheme**

The Probation Board Victim Information Scheme became operational on 25 October 2005. It is a statutory scheme provided for by the Criminal Justice (NI) Order 2005.

Its objective is to ensure that victims receive information, on request, about what it means when someone is sentenced to an Order which requires supervision by PBNI.

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If, following conviction, the perpetrator of the offence receives a Probation Supervised Sentence, the victim of the offence will be advised about the PBNI Victim Information Scheme.

The Scheme is available to any person (or agreed representative) who has been the direct victim of a criminal offence for which the offender received a Probation Supervised Sentence.

The 5 parties to a Protocol supporting the operation of the Scheme are PBNI, PSNI, PPS, VSNI and Prison Service.

PPS co-operates by providing to PBNI the information required to assist them in operating the Scheme.

The Victim Information Scheme operates as follows:

- General information can be provided about PBNI's supervision of offenders on Probation; Community Service; Combination Orders; Supervised Sex Offender Licence; Custody Probation Orders or Juvenile Justice Centre Orders.
- Information can be provided in writing; by phone; or face to face with a PBNI Victim Liaison Officer
- Information can be provided, if appropriate, about any organisation which may be able to offer specific support.

For reasons of confidentiality the Scheme cannot provide any personal information about the offender.

### **Paying witness expenses**

We will pay reasonable expenses to a witness for attending court. PPS have developed a Witness Expenses Payment Policy, which is published on our website ([www.ppsni.gov.uk](http://www.ppsni.gov.uk)).

The target for payment is ten days from receipt of the completed expenses form.

# 6

## Developing our Services

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PPS are committed to continually reviewing and improving the services it provides to victims and witnesses.

### 6.1 TRAINING PPS Staff

All PPS staff are trained to professional standards and we invest heavily in ongoing training. Emphasis has been placed on training all staff, legal, corporate and administrative, in Human Rights standards. A further priority for this year is to provide Equality and Diversity training to all staff. All legal staff have received training in dealing with domestic violence cases in line with the 2005 PPS policy on Prosecuting cases of Domestic Violence.

This Victims and Witnesses policy will be promoted within the organisation to ensure its effective and continued implementation.

#### **Counsel in Independent Practice**

Whilst PPS lawyers prosecute in court, the services of counsel in independent practice are also used by the PPS in many cases. Whilst they are not members of staff, they are still subject to the same requirements as to standards of service. Counsel must also act in accordance with Bar Council Rules and standards of conduct. Any breach may result in disciplinary proceedings being brought against that barrister.

PPS is also committed to putting measures in place to ensure that the standard of service provided by independent counsel is appropriate. To do this, we have undertaken a review of the arrangements for the briefing and retention of counsel. A programme will be introduced to require that counsel instructed by PPS have undergone appropriate training in what is expected from them in terms of how they deal with victims and witnesses at court and during consultation.

PPS is committed to reviewing and continually improving our services. In addition to investing in training and developing all of our staff, we have a number of mechanisms in place to ensure this happens:

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## 6.2 COMPLAINTS PROCEDURE

If a victim or witness is dissatisfied with the services, or standards of service provided by PPS, they may make a complaint. The PPS complaint procedures are set out in full on the PPS website ([www.ppsni.gov.uk](http://www.ppsni.gov.uk)).

A separate PPS booklet has been published about how to make a complaint. Any person who has had contact with the PPS in any capacity can make a complaint.

Complaints will be investigated and dealt with by individuals other than those about whom the complaint was made. They will be considered fairly and impartially. Complainants will be dealt with professionally and with sensitivity and courtesy. Complaints will be fully considered in line with the complaints policy and procedures. An internal Quality Assurance team will monitor complaints and outcomes of them.

A complaint for these purposes has been defined as, *'any communication which expresses dissatisfaction with, or criticism of, the services provided to the community by the PPS'*.

A complaint can be made by telephone (028 90 897070); by fax (028 90 897069); by letter marked 'Complaints', to PPS, Belfast Chambers, 93 Chichester Street, Belfast, BT1 3JR; by email ([complaints@ppsni.gsi.gov.uk](mailto:complaints@ppsni.gsi.gov.uk)); at court or in person at any PPS Office.

The PPS will acknowledge receipt with 5 working days and will seek to make a full response within 15 days.

A key feature of this new complaints procedure is that there is an Independent Assessor. A separate booklet has been published about his role. He will review a complaint where the complainant is not satisfied with the way in which the PPS has decided to deal with the complaint. In such cases the PPS will forward all the information provided by the complainant to the Independent Assessor who will contact them directly.

Separate arrangements apply if a person wishes to ask the PPS for reasons for prosecution decisions or if they wish to have a prosecution decision reviewed. The

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PPS policy on the giving of reasons and the review of prosecution decisions is set out in full in the Code for Prosecutors and is summarised below:

### **6.3 REVIEW OF DECISIONS**

A victim may request a review of a decision not to prosecute. This is a non-statutory process. The approach taken is as follows:

- (a) If no additional evidence is provided connected to the request for a review, the case will be considered by the prosecutor other than the prosecutor who initially took the decision now under review. The prosecutor conducting the review will consider the evidence and information reported in the police investigation file. There are two potential outcomes of such a review:
  - (i) If the prosecutor concludes that the decision was within the range of decisions that a reasonable prosecutor could take in the circumstances, then the initial decision will stand and the review dealt with on that basis.
  - (ii) Alternatively, if the prosecutor concludes that the original decision was not within the range of decisions that could reasonably be taken in the circumstances, then that prosecutor will apply the test for prosecution and reach a fresh decision in the case.
- (b) If additional evidence is provided in connection with the request for a review of the decision not to prosecute, the case will be reconsidered by the prosecutor who initially took the decision in the case with a view to deciding whether or not the evidence now available provides a proper basis on which to change the original decision. There are two potential outcomes of such a review:
  - (i) If the prosecutor concludes that there is sufficient basis for changing the original decision, that prosecutor will apply the test for prosecution and reach a fresh decision in the case.
  - (ii) Alternatively, if the prosecutor concludes that there is no sufficient basis for changing the original decision then the case will be referred to a different prosecutor who will conduct a review of the decision.

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## **6.4 GIVING OF REASONS**

The victim may ask why a decision not to prosecute was made. The giving of reasons for not prosecuting is a complex issue. In many cases the reason for not prosecuting is a technical one, such as the unavailability of a particular proof which is essential to establish the case. A balance is struck between the proper interests of the victim and other concerns, such as damage to the reputation or other injustice to an individual, the danger of infringing upon the presumption of innocence or other human rights and the risk of jeopardising the safety of individuals. PPS will give reasons in general terms only, indicating whether the decision was based on insufficiency of evidence or in the public interest. This general policy is considered in every case where a request for the provision of detailed reasons is made.

However, the PPS recognises that there may be cases arising in the future, which it would expect to be exceptional in nature, where an expectation will arise that a reasonable explanation will be given for not prosecuting where death is, or may have been, occasioned by agents of the State. Subject to compelling grounds for not giving reasons, including duties under the Human Rights Act 1998, the PPS accepts that in such cases it will be in the public interest to reassure a concerned public, including the families of victims, that the rule of law has been respected by the provision of a reasonable explanation. The PPS will reach a decision as to the provision of reasons, and their extent, having weighed the applicability of public interest considerations material to the particular facts and circumstances of each individual case.

## **6.5 SURVEY**

As part of our commitment to developing our services we have devised and issued a survey to every witness who has been called to give evidence for the prosecution and to every victim in cases reported by us, including cases where a decision was taken as to no prosecution. The results of this survey will be the subject of careful consideration in reviewing how we deliver our services, and in determining how we can improve.

The survey is aimed at gauging the satisfaction with service delivery to victims and witnesses. The views have been sought of victims (including cases in which a decision was taken not to prosecute and also diversion cases); and to witnesses invited to attend court to give evidence (whether or not the case proceeded). A summary of the survey will be published in the annual report.

# 7

## Hate Crime

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Recent years have seen an increase in the number of racist incidents recorded by police in Northern Ireland and, although the actual number of attacks may seem small, Northern Ireland has a higher ratio of racist incidents for the size of the ethnic minority population compared with England and Wales. There have also been increases in recorded incidents involving victims defined by their sexual orientation and a rising concern about attacks on the disabled. PPS is committed to developing its services to help ensure the effective prosecution of these crimes. A separate policy on Hate Crime is being developed by PPS and will be published.

Legislation provides for offences and penalties against the use of threatening, abusive or insulting words or behaviour, the display and distribution of written material, and related activities intended or likely to stir up hatred or arouse fear. The protections provided are regarding religious belief, colour, race, nationality, ethnic or national origins, sexual orientation and disability.

Legislation also provides increased penalties for offences motivated by hostility towards a person's race, religion, sexual orientation or disability.

The PPS is committed to ensuring the effective operation of these provisions.

### **7.1 Monitoring**

When the PSNI submit an investigation file for consideration by the PPS the investigating officer will indicate whether the motivation for the offence is perceived by the victim to be racial, sexual orientation, religious, disability or domestic violence. When PPS make a decision as to prosecution, the prosecutor will record whether there is evidence that the motivation for the offence is racial, sexual orientation, religious, disability or domestic violence.

### **7.2 Sentencing**

Where a person is convicted of an offence which is aggravated by hostility to a victim based on the victim's membership of a racial, religious or sexual orientation group, or on the victim's disability or perceived disability, the court in sentencing must treat this as a factor that increases the seriousness of the offence. The PPS will bring to the attention of the court the existence of such hostility in any case in which it arises.

# 8

## Conclusion

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PPS is committed to continually improving the services we provide to victims and witnesses, and to continuing to work in effective partnership with other criminal justice agencies to achieve this. We want victims and witnesses to have confidence in the way in which we take decisions and progress cases.

We welcome the valuable support and practical help which is offered to victims and witnesses by support agencies. We will continue to work with other criminal justice agencies to ensure that services are delivered in a timely manner and to an acceptable level of quality.

We hope that this document will help victims and witnesses, and the general public, in understanding the work of PPS, how we make decisions and the different stages of the prosecution process.

We undertake to review this policy regularly so that it reflects current law and practices. We welcome any comments and feedback that will help us in doing this.

Where constructive feedback is received, results of the survey, or the outcome of a complaint reveal a gap or failing in service delivery, we are committed to reacting to that to improve how we provide our services to victims and witnesses.

Being a victim, or a witness, to a crime is likely to be a very traumatic experience. We recognize that giving evidence involves recounting that traumatic experience. We are committed, through improving the services available to victims and witnesses, to attempting to reduce the trauma and stress involved. Victims and witnesses play a vital role in an effective criminal justice system and the proper treatment of them and the continued development of improved services will encourage individuals to come forward to give evidence and will increase confidence in the criminal justice system. Significant progress has been made on many fronts by the PPS on its own account and in partnership with other bodies. We are committed to an ongoing process of improvement.

# 9

## Contact details

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### **CJINI**

6th-7th floor  
14 Great Victoria Street  
Belfast  
BT2 7BA  
**Tel** 02890 258000  
**Fax** 028 90 258033  
CJSNI  
[www.cjsni.gov.uk](http://www.cjsni.gov.uk)

### **Independent Assessor of Complaints for PPS**

c/o Law Society of Northern Ireland  
Victoria Street Belfast

### **NSPCC**

Block 1  
Jennymount Business Park  
North Derby Street  
York Road  
Belfast  
BT15 3HN  
**Tel** 028 90 351135  
**Email** [www.nspcc.org.uk](http://www.nspcc.org.uk)

### **Northern Ireland Court Service**

The Information Centre  
Windsor House  
10-12 Bedford Street  
Belfast  
BT2 7LT  
**Tel** 028 90 328594  
**Fax** 028 90 412390  
**text phone** 028 90 412920  
**email** [information centre@courtsni.gov.uk](mailto:information centre@courtsni.gov.uk)

### **Northern Ireland Office**

Stormont Castle  
Stormont Estate  
Belfast  
BT4 3TT  
**Tel** 028 90 520700  
**Text phone** 028 90 378085

### **Northern Ireland Prison Service**

[www.niprisonservice.gov.uk](http://www.niprisonservice.gov.uk)  
Northern Ireland Prison Service Victim Information  
Scheme  
[www.niprvis.gov.uk](http://www.niprvis.gov.uk)  
**Tel** 0845 2470002

### **Police Service of Northern Ireland**

[www.psni.police.uk](http://www.psni.police.uk)

### **Probation Board for Northern Ireland**

80 – 90 North Street  
Belfast  
BT1 1LD  
**Tel** 028 90 262400  
**Fax** 028 90 262470  
**Text phone** 028 90 262490  
**Email** [info@pbni.org.uk](mailto:info@pbni.org.uk)

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### **Probation Victim Information Scheme**

Victims Unit  
Imperial Buildings  
72 High Street  
Belfast  
BT1 2BE  
**Tel** 028 90 321972  
**Fax** 028 90 321973  
**Email** [victimunit@pbni.org.uk](mailto:victimunit@pbni.org.uk)  
**www** [pbni.org.uk/victims](http://pbni.org.uk/victims)

### **Victim Support Northern Ireland**

3rd Floor  
Annsgate House  
70-74 Ann Street  
Belfast  
BT1 4EH  
**Tel** 028 90 244039  
**Fax** 028 90 313838  
**Victim Support Line** 0845 3030900  
**Email** [info@victimsupportni.org.uk](mailto:info@victimsupportni.org.uk)

### **Public Prosecution Service**

Belfast Chambers  
93 Chichester Street  
Belfast  
BT1 3JR  
**Tel** 028 90 897102  
**Fax** 028 90 897030  
**Email** [info@ppsni.gsi.gov.uk](mailto:info@ppsni.gsi.gov.uk)  
**www** [ppsni.gov.uk](http://ppsni.gov.uk)

### **Youth Justice Agency**

Corporate HQ  
41-43 Waring Street  
Belfast  
BT12DY  
**Tel** 028 90 316400  
**Fax** 028 90 316402/3  
**Email** [info@yjani.gov.uk](mailto:info@yjani.gov.uk)  
**www** [youthjusticeagencyni.gov.uk](http://youthjusticeagencyni.gov.uk)  
**www** [youthconferenceserviceni.gov.uk](http://youthconferenceserviceni.gov.uk)

### **PPS Community Liaison Teams**

<b>Area</b>	<b>Tel</b>
Belfast	028 90 897070
Ballymena	028 25 666563
Lisburn	028 92 625509
Omagh	028 82 257212
Londonderry	028 70 353316, ext 42

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For further information about the PPS,  
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Website: [www.ppsni.gov.uk](http://www.ppsni.gov.uk)

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