

Safeguarding Children as Victims and Witnesses

Introduction

The purpose of this document is to provide practical and legal guidance to prosecutors dealing with cases that involve children (Article 1 of the UN Convention defines a child as any person who has not yet reached their 18th birthday) as victims and witnesses.

This guidance outlines the measures that can be taken to help safeguard children in the course of criminal proceedings, but the position can be summed up in the following principles: Expedition, Sensitivity and Fairness.

Whatever the offence, prosecutors should consider the position of the child and what can be done, having regard to the role and the powers of the prosecutor, to safeguard the child. Prosecutors should have the ABE guidance ([‘Achieving Best Evidence’ which provides detailed recommended procedure for interviewing child witnesses](#)) in mind when reviewing cases in which a child is a victim or witness. In cases involving children either as victims or as witnesses, delay should be kept to a minimum to reduce the levels of stress and worry about the process that the child may feel.

Child witnesses under the age of 18 will automatically be eligible for special measures by virtue of [section 16 of the Youth Justice and Criminal Evidence Act 1999](#).

Prosecutors will need to consider in appropriate cases such as domestic abuse, child sexual abuse, neglect or cruelty whether to make enquiries through the police of the local authority solicitors about family proceedings. There can be considerable benefits to be gained where agencies and authorities establish close working relationships to work together to safeguard and promote the welfare of children.

Prosecutors should try to provide assistance to local authorities and person appointed by the court to act in the best interests of a child seeking to discharge their statutory responsibilities.

Separate guidance is available in relation to [youth offenders](#). Separate, detailed guidance is also available in relation to [child abuse cases](#).

Prosecutors and Safeguarding

Safeguarding is defined by [Working Together to Safeguard Children 2018](#) as:

- Protecting children from maltreatment
- Preventing impairment of children’s health or development
- Ensuring that children grow up in circumstances consistent with the provision of safe and effective care
- Taking action to enable all children to have the best outcomes

Although the main responsibility for children's welfare and safety will usually lie with agencies such as policing, social, health and education services, there is, nevertheless, a role for prosecutors in terms of safeguarding children.

Prosecutors may have contact with children as victims or witnesses and also as defendants. This can be indirect, such as making charging decisions and file reviews, and direct, such as prosecuting cases in court.

Prosecutors' decisions and actions may have a direct impact on the safety of a child in individual cases. Examples include:

- Considering whether bail (with or without conditions) is appropriate;
- Deciding on the charge or the public interest in prosecuting a case;
- Successfully prosecuting offenders who pose a danger to children, so that the courts can impose sentences that protect children.

One of the key points to recognise is that the prosecution process itself, particularly the trial, can be daunting and stressful for children. There are risks of re-traumatising the child or causing the child unnecessary worry and distress.

Working together

One of the very clear messages of the [Every Child Matters](#) report (presented to Parliament in 2003), the [Children Act 2004](#) and joint thematic Safeguarding Children inspections is that there can be considerable benefits to be gained where agencies and authorities establish close working relationships and share information. Where independence and objectivity are not compromised, prosecutors should positively engage with other authorities and agencies to safeguard children, including through the Local Safeguarding Children Board (see further at Annex 1 below).

Cases involving children

Children can be victims of offences and can also be affected by crime even if they are not themselves victims or witnesses. A child may be seriously affected by, for example, domestic violence, even if not present in the same room as the offence is committed.

The Code for Crown Prosecutors reminds prosecutors to consider the circumstances of the victim when considering whether a prosecution is required in the public interest. The more vulnerable the victim's situation, or the greater the perceived vulnerability of the victim, the more likely it is that a prosecution is required.

Whatever the offence, prosecutors should consider the position of the child and what can be done, having regard to the role and the powers of the prosecutor, to safeguard the child including the availability of Special Measures and the possibility of a prosecution without the participation of the victim. Although it is unlikely to be possible to eliminate stress and worry altogether, prosecutors should take such steps as are possible to reduce it to a minimum.

Reviewing cases where the child is a victim or a witness

Achieving Best Evidence (ABE)