

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

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Executive summary

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.
- 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

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%).

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.

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.

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.

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

Topic	Scheme-supported witnesses who said this was discussed (n=110)	Comparison group witnesses who said this was discussed (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

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.

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.

1. Background and aims

Young people are disproportionately more likely to be victims of crime than adults. For example, the 2004 Home Office Crime and Justice Survey found that more than a third of 10 to 15 year-olds had been victims of at least one personal crime in the previous 12 months (Budd *et al.*, 2005). Twenty per cent in this age group had been the victim of a personal theft; this compares with the 2004/05 British Crime Survey estimate that 1.2 per cent of adults (aged 16 and over) had been the victim of a theft from the person. In a sample of 4,715 pupils in mainstream schools aged between 11 and 16, the MORI Youth Survey 2004 found that 49 per cent reported being a victim of crime in the previous year (Youth Justice Board, 2004). For England and Wales as a whole, this equates to just over 2 million young victims in this age range.²

There are no government statistics on the number of young witnesses actually called to give evidence. Estimates indicated that 20,240 witnesses under 16 were expected to attend court in 2005.³ In 2005/06, the Witness Service supported 28,189 witnesses at court aged 17 and under (8% of all witnesses it supported).⁴ Extrapolating from records kept by one of the schemes in this study confirms that around 27,000 young witnesses might be called as witnesses annually in England and Wales.

The national Witness Service was set up in 1994 and is run by the charity Victim Support. It is now available in every criminal court and provides a free service to support and inform witnesses, including young witnesses, who are called to give evidence. This includes the option for witnesses to visit a court before the trial. Victim Support receives £12m from the government to provide the Witness Service. It also receives additional funds for enhanced services to young and other vulnerable witnesses, which is used to provide services in fewer than half of all Crown Court centres.⁵

Since the early 1990s, specialist support services for young witnesses have been introduced in some areas in England and Wales. These services, which are also free, provide more child-focused support and preparation. They operate in conjunction with or instead of the local court-based Witness Service. The specialist schemes have evolved through local and non-governmental agency initiatives, rather than as part of a central government programme and the scope of services offered vary between schemes. The inevitable result has been that services targeted at young witnesses are provided unevenly across the country. An enquiry into witness arrangements concluded that, because of gaps in provision and other problems, young witnesses did not have access to a coherent, nationwide support system (Inter-agency Working Group on Witnesses, 2003). The government acknowledged that 'tailored support is needed, and too often it is not available' (Home Office, 2003b).

All young witnesses under 17 are considered 'vulnerable' and eligible for Special Measures under the Youth Justice and Criminal Evidence Act 1999. The government is committed to improving the quality and consistency of support available to young witnesses. The 'No Witness No Justice' (Witness Care Units) programme provides a service to all witnesses. While Witness Care Units do not provide a specific service to young witnesses, they are expected to:

² This is based on the 2005 figure of 4,128,000 for the population of 11-16 year-olds, see <http://www.statistics.gov.uk/statbase/Expodata/Spreadsheets/D9389.xls>.

³ The estimates are based on twice-yearly two week Witness Monitoring Surveys. Child witness categories are based on small sample sizes and 'should be treated with extreme caution': email to the authors from Department for Constitutional Affairs, 6.10.06.

⁴ Victim Support National Office email to authors, 11.8.06.

⁵ The 'enhanced' service includes earlier and more frequent contact and home visits. Victim Support National Office determines how this additional funding is distributed. It explained that some areas provide an enhanced service to vulnerable and intimidated witnesses at both Crown Court and magistrates' court level, whereas other areas are able to provide an enhanced service (including to children) in only some of their courts: email to authors, 26.1.06.

“ensure that children’s needs are assessed and met, so that, for example, pretrial court visits are arranged; access to a range of emotional support and guidance through appropriate groups is offered; where possible home visits take place; and parents are provided with a single point of contact to access information and advice throughout the case”. (Goggins, 2004)

A Joint Letter was issued by government departments (Home Office, Lord Chancellor’s Department and Department of Health, 1993) to coincide with publication of the Child Witness Pack (NSPCC, 1993). The Letter acknowledged that preparation is a skilled task, to be undertaken only by a person independent of the investigation with requisite skills and training. However, neither the Pack nor the Joint Letter (the only guidance at that time about what constituted good practice in carrying out young witness support) specified the skills and training required of a young witness supporter. The NSPCC’s ‘Preparing young witnesses for court: a handbook for child witness supporters’ (Young Witness Pack, 1998)⁶ was developed to fill that gap. The handbook formed the foundation for the chapter on witness support and preparation in ‘Achieving Best Evidence’ (chapter 4, Home Office *et al.*, 2002) and for the National Standards for Young Witness Preparation (appendix J). The National Standards define the key characteristics of those undertaking witness preparation and their key tasks and provide the benchmark for delivery of support services. The Standards describe the purpose of preparation as helping young witnesses feel more confident and better equipped to give evidence at court; to understand the legal process and their role within it; and to encourage them to share their fears and apprehensions about the court process, thus assisting them to give their best evidence. This study drew on the National Standards in developing the evaluation framework and recommendations for best practice models.

This evaluation draws on a substantial body of young witness research.⁷ Common findings (summarised in Murray, 1997 and the NSPCC handbook for child witness supporters, 1998) include the following:

- without support and preparation, including strategies to address the witness’s anxiety, a young witness’s ability to give best evidence is likely to be impaired and the process may result in system-induced stress;
- those preparing children for court must be independent of the investigation of the case, to avoid contaminating children’s evidence;
- preparation (usually requiring a number of sessions) should be tailored to the needs of individual children, their anxieties, concentration span and understanding of the court process;
- improving the treatment of young witnesses in the process requires a collaborative approach. Criminal justice personnel should be made aware of sources of system-induced stress on young witnesses. They need to be familiar with and trust preparation methods used. Supporters need to pass on information to others about the child’s needs, in order to inform criminal justice decision-making about the child;
- parents, carers and siblings also require information and support, which makes them better able to assist the young witness.

Two of the earliest studies were conducted in Canada (Sas *et al.*, 1991, 1993). The first of these found that a court preparation programme, (consisting of three to eight sessions) for

⁶ It was developed in partnership with criminal justice and children’s organisations and was based on research and best practice from this country and other jurisdictions.

⁷ Relevant studies in this country include, for example, Aldridge, 1997, Plotnikoff and Woolfson, 1996, 2004 and Aldridge and Freshwater, 1993. Research in other jurisdictions, includes for example, Sas *et al.*, 1991, 1993 (Canada); Cashmore and Trimboli, 2005 (New South Wales, Australia), Eastwood and Patton, 2002 (Queensland, New South Wales and Western Australia), Muller and Hollely, 2000 (South Africa), Saywitz and Snyder, 1993 and Whitcomb, 1993 (United States).

young witnesses in sexual offence cases was more effective in reducing system-induced stress than an alternative model of intervention consisting of a courtroom tour and a verbal explanation of court procedures. The child witness programme benefited children by educating them about court procedures, helped them deal with stress, helped enable them to tell their story in court (as assessed by prosecutors) and provided advocacy on their behalf by promoting their perspectives and interests with other agencies. The second study (Sas *et al.*, 1993) was a longitudinal evaluation of the social and psychological adjustment of young witnesses in the previous study. Better adjustment was associated with a finding of guilt against the abuser. Children identified as needing the most intensive intervention included those who did not have a parent giving effective support.

There have been three relevant, recent studies in the UK. The NSPCC study 'In their own words: The experiences of 50 young witnesses in criminal proceedings' (Plotnikoff and Woolfson, 2004) drew on interviews with young people who gave evidence in 29 courts. Findings include the following:

- 14 young witnesses had no contact with a supporter before the trial date. The remainder had between one and eight pretrial contacts;
- the needs of seven young witnesses were identified to the court. However, the research identified a further 17 whose needs had not been identified;
- young witnesses found most helpful their contact with the supporter (32 of the 36 who had such contact); the pre-trial visit (23 of the 24 who received a visit); and Young Witness Pack materials (17 of the 20 who saw them);
- of 44 young witnesses giving evidence by TV link, 25 were accompanied by someone from a support organisation, 18 by a court usher, two by a family member and one was alone. Eight of these witnesses had chosen who accompanied them. Thirteen had only met the person in the TV link room on the day of trial. Many were unclear about who this person was.

In Scotland, an evaluation on behalf of the Lord Advocate's Working Group on Young Witness Support (Plotnikoff and Woolfson, 2001) found that specialist support by a child witness officer (a small pilot programme) was greatly appreciated by young witnesses, parents and carers, and by criminal justice personnel. Outside the pilot programme:

- those referred for support tended to be victims of sexual offences which did not account for the majority of young witnesses;
- carers were often unsure about what was happening with the case or about whom to contact, and were frustrated that no-one discussed special measures with them or their children;
- due to a lack of written guidance and training, many supporters felt poorly equipped to help parents and children at court;
- there were no procedures for obtaining and passing on information about the child's needs and abilities. This affected the questioning of children at court which was frequently considered developmentally inappropriate;
- there was a perception among criminal justice system personnel that older children aged around nine to 14 were better able to cope and less in need of special measures. The study indicated this was not so;
- there was a need for specialist support services to be offered to all young witnesses.

An evaluation of the NSPCC's young witness service in Northern Ireland (Research and

Evaluation Services, 2002) found that:

- the service (which included pretrial and post-trial preparation, as well as emotional support while giving evidence) was highly valued by young witnesses, their parents and carers and held in esteem by other agencies;
- the support of young witnesses was acknowledged as 'fundamentally a safeguarding and children's rights issue'.

This evaluation of six young witness support schemes builds on the findings from these studies. This project was the first to examine a range of service providers in order to identify good practice and a model for provision of services consistently across the country. It also sought to explore whether the services provided added value for the young witnesses themselves, their parents or guardians and for the criminal justice system. It involved the largest sample of young witnesses interviewed thus far in this country.

The six schemes in the evaluation

Six specialist support schemes were identified for the evaluation, operated by three organisations: two young witness services operated by Victim Support (separate from the court-based Witness Service); two young witness schemes administered by Area Child Protection Committees (replaced in 2006 by Safeguarding Children Boards); and two young witness services managed by the NSPCC. These were selected from a range of schemes across the country providing enhanced services to young witnesses.⁸ Only some areas are served by specialist services. The majority of witnesses in this study received enhanced support. It should be noted that this is not typical of the national picture in which specialist services are not available to the majority of young witnesses.

The areas served by the schemes provided a geographical spread and a mix of urban and rural communities. Differences taken into account in selecting the schemes to be evaluated included organisational structure, resources, funding, number and type of supporter, scope of services offered and target group. There were variations even between schemes operating under the same parent organisation. The oldest scheme was established in 1994; the most recent only became fully operational in August 2004. The number of witnesses referred to and supported by each scheme in the year to the end of March 2005 was as follows:

⁸ The overall number and types of schemes nationally have fluctuated: at one point, the NSPCC had 25, subsequently reduced to six. More recently, an Area Child Protection Committee scheme in Nottingham was discontinued, to be replaced by one managed by Victim Support. Other specialist programmes include one managed by the social services department in East Sussex and Barnardos schemes in Liverpool and Middlesbrough.

Table 1.1 Number of witnesses referred to the scheme and prepared for court in the year to 31 March 2005

Scheme	Number referred	Number prepared for court
A	137	No statistics available
B	959	458
C	441	No statistics available
D	357	178
E	199	100
F	83	46

While schemes were not directly comparable in many ways (for example, because the services offered and target client groups differed) the experiences and views of the young people they helped can be treated as a whole in considering the impact of providing an enhanced service. The study aimed to identify elements of best practice from the range of approaches and procedures they employed. The identity of the six participating schemes is anonymised in this report.

Objectives

There were five key objectives for the evaluation.

1. To investigate the extent to which the schemes are beneficial and add value for young witnesses, in terms of reducing the trauma of giving evidence at court; increasing young witnesses' willingness and confidence to testify; enabling them to give complete, coherent and accurate 'best evidence'; and increasing their satisfaction with the criminal justice system.
2. To investigate the extent to which the schemes are beneficial and add value for non-abusing parents and carers, including the willingness and confidence of parents/ carers to allow their child to testify; assisting parents/ carers to support their child effectively and reducing their distress; and increasing their satisfaction with the criminal justice system.
- 3(a). To investigate the extent to which the schemes are beneficial and add value for the criminal justice process, in terms of increasing the willingness of police and CPS to bring prosecutions in cases where young witnesses were supported and prepared for court (ensuring more offences are brought to justice); gaining more successful outcomes to prosecutions; ensuring that objectives of the 'No Witness No Justice' project are met (through support being available to meet identified need and clarity of each agency's roles and responsibilities for witness care); and providing a level and type of service that cannot be provided elsewhere in the criminal justice system.
- 3(b). To obtain information about outcomes and attrition.
4. To provide a financial assessment of the schemes, in terms of their cost (e.g. overall annual cost and average cost per witness supported); any issues or problems concerning funding arrangements (e.g. funding for a fixed period only); the advantages, disadvantages and viability of matched funding from central government departments; and whether such schemes should be nationally funded.
5. To provide a model or models for young witness services and information on good practice by identifying key elements of young witness services; advising on key principles which might

underlie any national procurement exercise for such services, ensuring that existing and new schemes were able to apply, and that schemes would provide value for money.

The following criteria were used as a basis for judging good practice:

- scheme coverage (type and number of young witnesses supported);
- whether the scheme extended to supporting non-abusing parents and carers;
- whether young people and parents/ carers found the scheme helpful;
- whether the schemes encouraged witnesses to stay in the system (reduce attrition);
- the intensity and duration of support before, during and/ or after trial;
- quality of staff training;
- availability of live TV link facilities on scheme premises;
- quality of inter-agency and cross-agency working and monitoring;
- the extent to which the judiciary were provided with information;
- how well-defined were the responsibilities of practitioners and agencies.

Research design

The study was conducted between February 2005 and March 2006. The views of over 650 people were obtained through interview, survey and focus group.⁹ This included 144 interviews with young witnesses and 142 interviews with parents or carers. Other groups whose views were sought included young witness scheme managers and supporters, judges, magistrates, court personnel, Witness Service managers, police and CPS personnel.¹⁰

The following work was undertaken in relation to each objective.

Objective 1: to investigate the extent to which the schemes are beneficial and add value for young witnesses

In all, the names of 172 young witnesses were forwarded to the study. Interviews took place in relation to 151 of these:¹¹ 110 supported by a scheme in the evaluation, referred to the scheme-supported group, and 41 others, referred to as the comparison group.

Witnesses in the scheme-supported group had received the enhanced level of support provided by one of the six specialist schemes. Witnesses in the comparison group were drawn from those who had declined support (27 of the 41, 66%) or had fallen through the referral net (12 of the 41, 29%). For the remaining two comparison group witnesses, it was not possible to determine why they had not been supported by a scheme in the evaluation.¹² Although comparison group witnesses had not received the enhanced support services provided by specialist schemes, they would have had access to standard levels of support: assistance provided by the police (and now

⁹ This total did not include those attending Local Criminal Justice Board subcommittees and scheme management meetings where the research team was represented and the study was discussed.

¹⁰ Further details can be found in Appendix 1.

¹¹ Twenty-one referrals, six of which concerned comparison group witnesses, could not proceed to interview due to consent being withdrawn or the witness not being available.

¹² The study was designed to avoid any suggestion of a 'control group' comprising young witnesses who were deliberately excluded from support as this was deemed to be unethical.

also by Witness Care Units, rolled out during this study) and the court-based Witness Service which is available to all witnesses waiting on the day of trial. The Witness Service can also arrange for pretrial familiarisation visits to the court and, where permitted, accompany the young person while giving evidence.

Of the 151 young witnesses, 144 (107 in the scheme-supported group and 37 in the comparison group) were interviewed in person. For the other seven witnesses (three in the scheme-supported group and four in the comparison group) a proxy interview was held with a parent or carer. In nine referrals (seven in the scheme-supported group and two in the comparison group) only the young witness was interviewed. In the remaining 135 referrals, both the young witness and the parent or carer were interviewed. In all, 103 parents or carers of scheme-supported witnesses and 39 of comparison group witnesses were interviewed.

All 151 young witnesses attended to give evidence on the day of trial but only 111 actually testified: of these, 84 were scheme-supported and 27 were in the comparison group.

Witnesses in the comparison group were identified with the assistance of court-based Witness Services in fieldwork areas. Attempts were unsuccessful to identify additional comparison group witnesses through British Transport Police Administration of Justice Units,¹³ police Family Support Units in one field work area and social services departments in another.

All witnesses were called by the prosecution (the study requested referrals from defence witnesses also, but none was received). In 26 cases, interviews were conducted in respect of more than one witness per case (a total of 56). Two of these cases involved interviews with both supported and comparison group witnesses.

All but six young witnesses were interviewed at home. The supporter was present at five interviews, mostly in addition to a parent or carer. The interviews with the young person and parent or carer lasted, on average, for just over an hour. At the end of the interview, the young witnesses were given a £5 gift voucher and a certificate thanking them for their participation. Many young people said they valued the opportunity to do something that might assist other young witnesses in the future.

Research involving young people requires an independent ethical review. The methodology used in this study followed recommendations made in the independent assessment¹⁴ of a previous study (Plotnikoff and Woolfson, 2004). These recommendations addressed, for example, consent procedures and the need for interviewers to follow up referral of any young person in need of counselling. Letters to young witnesses explained that their evidence would not be discussed during the interview. This was repeated at the start of the interview and an assurance was given that interviewees would not be identified in the study report. A semi-structured approach was used with both younger and older age groups. Young interviewees were offered laminated, illustrated and coloured prompt cards for reference. These were captioned with open-ended questions, for example: 'The supporter made me feel...' and 'When they asked me questions I felt...'. Children did not answer every question: where the report quotes a certain number responding in a particular way, it does not necessarily mean that the remainder expressed the opposite view. Interviewers recorded witness answers on a form which allowed them to code specific answers¹⁵ as well as noting the actual words used by the young witness where appropriate. This approach minimised the possibility that interviewers would interpret or code responses in different ways.

Support organisations completed referral forms for each witness in the study. This contained

¹³ Many British Transport Police cases involving young witnesses do not reach trial. Nevertheless, its Criminal Justice Units were very interested in being able to refer young witnesses for support and pretrial preparation.

¹⁴ By Dr Eileen Vizard, FRCPsych, consultant child and adolescent psychiatrist; honorary senior lecturer UCL; clinical director, NSPCC Young Abusers Project.

¹⁵ The most likely answers were determined from responses to the 50 young witness interviews conducted for a previous study, NSPCC 2004.

detailed information about the child, the case and the support provided.¹⁶ Two-thirds of young witnesses referred were female, the proportion of females being slightly higher than this in the scheme-supported group and lower in the comparison group. Ages ranged from five to 17 in the scheme-supported group and eight to 17 in the comparison group. The scheme-supported group had 24 young witnesses (22%) aged between five and 11, compared with only three (7%) in the comparison group in this age range. The average age of all witnesses referred was 13.6 years (13.4 for scheme-supported witnesses and 14.1 for the comparison group).

Parents and carers were invited to complete an equal opportunities monitoring form for their child. Of the 146 young people for whom information was available, 137 (91%) were White British; two were White and Black Caribbean; two were White and Asian; two were Chinese; one was Bangladeshi; and two were described as from 'any other Black background'.

The witnesses attended ten Crown Court centres, 17 magistrates' courts and 14 youth courts. Information about whether or not the witness was also a victim was available for 139 witnesses, 104 in the scheme-supported group and 35 in the comparison group. Of these, victims accounted for 76 (73%) scheme-supported and 21 (60%) comparison group witnesses. Fifty-four of the 110 scheme-supported witnesses (49%) but only eight in the comparison group (20% of the 41) were witnesses to a sexual offence. The high proportion of these offences in the scheme-supported group was due to the focus of one scheme dealing only with abuse cases and the fact that such referrals from police child protection teams were a key part of the work of four other schemes.

Objective 2: to investigate the extent to which the schemes are beneficial and add value for non-abusing parents and carers

The study aimed to obtain the views of a parent or carer accompanying a witness at interview.¹⁷ The views of a parent or carer were obtained for 103 of the 110 young witnesses in the support group (94%) and for 39 of the 41 comparison group witnesses (95%) – a total of 142 witnesses.¹⁸

Objective 3(a): to investigate the extent to which the schemes are beneficial and add value for the criminal justice process

The views of 367 professional participants in the criminal justice process were obtained through interviews, focus groups and surveys across the fieldwork areas. The majority view as expressed in surveys and focus groups was consistent and so the report presents the views of police and CPS focus groups and surveys together.

It is not possible to give response rates for the criminal justice surveys, as most were passed on to practitioners by third parties: questionnaires for judges were passed on by judges and court personnel interviewed during court visits; police and CPS surveys were distributed by those who attended focus groups.

Young witness support scheme managers were asked to distribute the supporter survey to a maximum of 25 supporters. The numbers of supporters in each of the six schemes and the number of survey responses per scheme can be found in Appendix 1, which indicates that the response rate was approximately 61 per cent.

Objective 3(b): Obtaining information about outcomes and attrition

In this study, the outcome (i.e. whether the defendant was found guilty or not guilty or a retrial

¹⁶ Nearly all forms were completed by the support organisation making the referral. In two comparison group cases, the referral form was filled in by the witness and family, assisted by the project interviewer.

¹⁷ Interviews were conducted with parents of 129 young witnesses and carers of 13.

¹⁸ Some parents provided information in respect of more than one child.

was ordered) was obtained for all but three cases.

There is a Public Service Agreement target of increasing the number of crimes for which an offender is brought to justice to 1.2 million by 2005/2006. However, there is no systematic national data information that permits an examination of the impact of supporting young witnesses on conviction rates. Attrition occurs when an investigation by the police does not lead to the conviction of a suspect (Gallagher & Pease, 2000). Attrition data on offences against children are not routinely collected in this country (Stewart and Baines, 2004).¹⁹ Attrition in the context of this study focused on one cause (where the witness refused or was unable to give evidence) and on only one part of the process (after the witness was warned to give evidence at trial). However, research indicates that most attrition occurs when cases fail to enter the court process. Gallagher and Pease (2000) reported that, of 1,000 investigations of alleged child abuse and neglect in England and Wales in 1997, the police took no further action in 76 per cent of cases. Similarly, an Australian study of 4,500 offences against children found that almost three-quarters of reported incidents failed to progress to diversion or court (Wundersitz, 2003).²⁰ In the English study, concerns over the sufficiency or quality of evidence accounted for over half of police and CPS decisions not to proceed. The wish of the child or parent not to pursue criminal proceedings was only one of a 'diverse range of other reasons' why the police or CPS terminated cases in their initial stages.

A number of methodological approaches were explored to assess attrition for the purposes of this study. These involved estimating the number of young witnesses at various stages in the process. However, no reliable information on this issue could be obtained from existing systems.²¹ The study also found it was not possible to collect meaningful data from fieldwork areas to calculate attrition rates. Witness Care Units have been introduced across England and Wales as part of the government's 'No Witness No Justice' project. In these Units, police and CPS personnel (and sometimes Victim Support) work together to manage the care of victims and witnesses. Their service includes a single point of contact for victims and witnesses; a full needs assessment (see chapter 2) in cases where defendants have pleaded not guilty, to identify specific support requirements; and dedicated witness care officers to steer individuals through the criminal justice process and to co-ordinate support and services.²² The feasibility of a prospective study involving data collection over a four-week period by Witness Care Units in three areas was explored, but the accuracy of the results for comparison purposes would have been open to question.

Given the limitations of the available data, the study concluded that an accurate measurement of attrition could only be undertaken through a longitudinal exercise, tracking cases involving young witnesses over time. Such an exercise was outside the scope of this study but would be a useful subject for future research.

Objective 4: to provide a financial assessment of the schemes

Support schemes provided financial information for the year to the end of March 2005. The information was requested as a part of an information profile that scheme managers compiled for the study and covered funding sources in the previous year; expected changes to funding in the coming year; whether matched funding was involved; whether the scheme had calculated a cost per supported witness and, if so, the basis of the calculations; and whether

¹⁹ This report called for data on charges, convictions and cautions for sexual offences against children, including reasons for not proceeding with charges, to be analysed on an annual basis. The Government of South Australia is attempting to tackle this information gap by linking incident and apprehension reports with court databases so that incidents involving juvenile victims can be tracked, Wundersitz 2003.

²⁰ The author said her study had not identified findings in relation to attrition once cases entered the court process.

²¹ Sources of information checked for this purpose were the CPS case management system (COMPASS); Crown Court case-tracking computer system (CREST); Joint Performance Management monitoring surveys (child witness categories were based on small sample sizes and therefore needed to be treated with extreme caution); Court Service statistics; and the Home Office Proceedings database.

²² However, the Witness Care Unit does not generally meet witnesses face-to-face and does not provide the kind of preparation for court or emotional support offered by the court-based Witness Service or the specialist young witness support schemes in this study.

the scheme's budget represented the true cost of the service it provided. Drawing on cost information obtained from schemes in the study, illustrative figures were provided to the Office for Criminal Justice Reform on annual costs for establishing and maintaining a nationwide network of young witness support schemes.

Objective 5: to recommend best practice models and advise on how to roll out nationally

In addition to interviews with scheme personnel and surveys of supporters, information about each young witness service was obtained through the scheme profile which covered its history; policies and procedures; statistics about the young witnesses referred and supported; recruitment and training of supporters; and governance issues. The information provided was collated and analysed by subject matter. Together with other information from the study, these profiles helped build a detailed picture of scheme activities and management structures. Support activities were assessed against the existing good practice standards listed above.

Statistical note

Throughout the report, the experiences and responses of scheme-supported witnesses and their parents or carers are contrasted with those of the comparison group. Where there is a statistical significance between the results for the two groups, this is indicated in tables by an asterisk (*) if the difference is significant at the five per cent level (in a two-tailed test).

Care should be taken when interpreting the meaning of such differences. It would be misleading to assume automatically that the cause was the different support services received by the two groups. Neither the scheme-supported nor the comparison group sample was a random selection. Moreover, the profile of witnesses in the two groups showed marked differences in the level of court where cases were tried (60% of those in the scheme-supported group gave evidence in Crown Court whereas only 30% did so in the comparison group), the types of offence involved, the proportion of witnesses who gave evidence and proportion who were victims (see discussion on case outcomes in chapter 2). All these factors could have contributed to differences observed. Finally, it would not have been appropriate to 'control' the comparison group by preventing them from having access to support from sources other than schemes in the evaluation; in a few cases, their experience of support was similar to that of scheme-supported witnesses. For these reasons, no more detailed analysis of statistically significant differences is undertaken (for instance, calculating measures of the strength of association such as phi or Cramer's V).

How the report is structured

Chapter 2 examines whether young witness support adds value in respect of young witnesses and their parents or carers and for the criminal justice process (objectives 1,2 and 3). Chapters 3, 4 and 5 address aspects of the operation of young witness schemes in order to identify aspects of good practice (objective 5): chapter 3 deals with referral and assessment, chapter 4 with support activities and chapter 5 with scheme governance and administration.

Chapter 6 sets out the conclusions of the study including principles underlying any national procurement exercise and the components of a model scheme (objectives 4 and 5). Further information is contained in appendices.

2. Does young witness support add value?

This chapter examines the extent to which support provided by the specialist schemes was beneficial and added value (Objectives 1, 2 and 3 of the evaluation) from the perspective of:

- young witnesses;
- their parents or carers;
- the criminal justice process, in terms of:
 - ▷ increasing the willingness of police and CPS to prosecute;
 - ▷ gaining more successful outcomes to prosecutions;
 - ▷ ensuring that 'No Witness No Justice' objectives were met; and
 - ▷ providing a service not available elsewhere in the criminal justice system.

The chapter draws on the views of witnesses, their parents and carers and criminal justice practitioners; an analysis of outcomes of cases in the study and other criminal justice statistics; and profiles of the six young witness schemes completed by coordinators.²³

In interpreting the findings, two things should be borne in mind. Many judges and practitioners in three areas had little direct contact with local young witness service supporters and some could not distinguish their work from that of the court-based Witness Service. Also, the 'No Witness No Justice' programme was in the process of national roll out during the study period; Witness Care Units in some of the fieldwork areas were not fully operational.

Whether schemes added value for young witnesses

The study demonstrated that support provided significant added value for young witnesses. Their need for support should be seen in light of the high levels of anxiety they reported pretrial (see chapter 4). Support helped young witnesses feel more confidence about going to court. There was a broad correlation between witness appreciation of services received and the number of contacts with the supporter. (Scheme-supported witnesses saw the supporter, on average, four times, compared with once for those in the comparison group).

The 144 young witnesses interviewed were invited to complete a form, assigning stars to indicate the relative helpfulness of different people or events. In interpreting their responses below, the following points should be noted:

- not all interviewees rated all the items;
- some interviewees did not receive certain services (see chapter 4)
- all comparison group witnesses had contact with a Witness Service supporter (but not all commented on the helpfulness of their supporter).

²³ People performing management and coordination roles had different titles in the six schemes in the evaluation e.g. in some schemes the functions were performed by more than one person. For the sake of consistency, the report refers throughout to the role of the young witness support scheme 'coordinator'.

Table 2.1 Young witnesses' views about what was helpful (self-completed form, not all interviewees rated all items)

How helpful was:	Scheme-supported witnesses (n=107)						Comparison group witnesses (n=37)					
	Not very		A little		A lot		Not very		A little		A lot	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Your supporter*	0	0	20	19	83	78	2	5	10	27	7	19
Visiting the court	2	2	55	51	37	35	1	3	10	27	6	16
Seeing Young Witness Pack booklets	11	10	60	56	27	25	4	11	6	16	1	3
Watching the young witness video	7	7	21	20	37	35	2	5	1	3	1	3
The judge or magistrates	26	24	39	36	29	27	8	22	15	41	6	16

*'Supporter' here includes the Witness Service supporter for those in the comparison group.

For both scheme-supported and comparison group witnesses, the support received was most frequently rated as having helped the young witnesses 'a lot', though approval rates were much higher among the scheme-supported group (71% of those in the comparison group did not meet a supporter until the day of trial).

Scheme-supported witnesses were asked what they had found helpful:

"Everything K did. She was a brick and made my parents feel reassured." (boy, 12)

"It was part of the experience we had of this country that people care about us. [The witness and family were in England temporarily.] If I had not had the supporter, I would have had second thoughts about going to court." (boy, 14)

"I wouldn't have gone to court if it hadn't been for her [the supporter] – I said no at first to the police." (girl, 11)

"I'm glad I had J [the supporter]. She helped me by telling me what to expect. To go to court you need someone like J." (boy, 10)

"The supporter was excellent. She knew how the system worked and we didn't." (boy, 15)

Many young people in the comparison group were regretful that they had declined support or that more had not been available. Some help offered was too late or was not sufficiently flexible:

"I just wish we'd taken up the offer of support. The others who had been given support [in the same case] were much more aware of things than we were. They seemed better about it all." (girl, 17)

"I regret not having a supporter and not visiting the court but we should have been given more than one date to be able to do this. When we had to watch our videos,

we were rung on Wednesday and asked to go on Thursday but this was too short notice. My mum works full time so we were told to go on Saturday at 7:45! At court on Monday no-one came to meet us so we were a bit clueless about where to go. When we went to the desk they told us.” (girl, 15)

Out of 107 scheme-supported witnesses interviewed:

- 103 (96%) said their supporter had made them feel more confident;
- 33 (31%) said their supporter was what made it possible for them to go to court. Of those who said this, 63% were supported by scheme F, which dealt primarily with more serious cases than other schemes i.e. Crown Court sexual offence cases; 36-38% were supported by schemes A, B and E; 19% were supported by scheme D; and 8% were supported by scheme C.

Chapter 4 examines the experience of witnesses in the scheme-supported and comparison groups. The analysis shows that, at a significance level of five per cent, scheme-supported witnesses were more likely than those in the comparison group to report that they:

- had enough time with their supporter;
- received consistently higher levels of support (receipt of Young Witness Pack materials and detailed explanations about court);
- were asked about their worries, questions and preferences;

They were also better informed than comparison group witnesses about what to do when answering questions at court.

Added value for young witnesses? Case studies from the scheme-supported and comparison groups

These anonymised case studies illustrate typical experiences reported in the study.

Mark, 16: scheme supported witness

Mark gave evidence at the Crown Court in a case of sexual assault. He worried about having to go to court from the outset and had to wait over six months for the case to come to trial. His family noticed that he was very withdrawn at this time. He was supported by the young witness service which made early contact with Mark and his family. During two home visits the supporter was able to give Mark information about the court, his role as a witness and the different ways of giving evidence. The supporter used young witness materials including the NSPCC young witness video. Mark is dyslexic and he talked to the supporter about how this might affect him when he went to court. The supporter made sure that the CPS knew about this and that Mark knew the oath would be read out to him at trial. Mark also had a pretrial familiarisation visit to the court and saw the TV link in action. Mark decided that he would prefer to give evidence on the TV link and the supporter passed this information on to the prosecution before the trial.

Mark attended court on the first and second days of trial but was not called to give evidence until the third day. He waited a total of twelve hours at court. He expected to give his evidence on the first day. He was really hyped up about this and it was very hard for him when he had to return to court. Mark's video evidence was played as his evidence-in-chief. Mark watched his video for the first time on the first day of the trial. He was very anxious and would have preferred to see it earlier when he would have found it easier to concentrate.

Mark admitted feeling angry and scared when he was cross-examined. He thought that some questions were too long and complicated. He was embarrassed about having to ask for the

questions to be put in a different way but said that the supporter had given him the confidence to be able to do this. Mark felt his responsibility as a witness very keenly and he worried about whether he had done his best when giving evidence even though the defendant was convicted. The young witness supporter saw the family after the trial and talked with them about the outcome of the case.

Mark was nervous at court but found it helped that he had been advised about the procedures and his role. His family also valued the support provided by the young witness service. They said that it helped Mark through a very tough time and made it much less stressful for all of them. They believe that it made a real difference to how they were able to cope with going to court.

Ann, 13: comparison group witness

Ann was bullied at school over a long period and then assaulted. The case was heard in the youth court. The bullying, assault and the prospect of the court case had a big impact on Ann who stayed away from school because of her fear of the defendant. Despite this, Ann and her family turned down the support they were offered by the young witness service early in the proceedings. They believed that they would learn all they needed to know from the police and the prosecution. However, when Ann and her family went to court for the trial, they realised that they had no idea what to expect.

Ann and her family welcomed the support of the court based Witness Service who showed them the courtroom on the day of the trial and explained about giving evidence on the TV link. But they were all anxious and it was difficult to take in the information. Ann decided that she would prefer to give her evidence in court. It was important to her to try and face up to the defendant. An order had already been made for her evidence to be given by TV link and Ann's request to give her evidence in court was denied. She was told that she should use the TV link because of her age and the nature of the offence.

The family found being at court stressful and confusing. Ann's mum wanted to watch the proceedings and see her daughter give evidence but the magistrates declined her request. Ann had a difficult time when she gave her evidence and became very distressed. She would have preferred to have someone she knew with her in the TV link room.

After giving evidence, Ann was still very upset and her mum found it difficult to comfort her. The family were angry that the defendant had been able to see Ann over the TV link because they had been told that this would not be the case. The family felt that they were hurried out of the court building afterwards and Ann's mum thought that they did not have enough time to compose themselves before they were sent away.

The defendant was convicted of the offence but Ann and her family found it difficult to cope after the case was over. Ann has moved to another school and has sought help through counselling. The family regret not taking up the offer of support that was offered to them by the young witness service. They believe that it would have given Ann a stronger basis for being a witness and would have helped her know what to expect.

Whether schemes added value for parents and carers

Parents and carers in the scheme-supported group were positive about the service:

- 93 (90% of the 103 parents and carers of young witnesses who were interviewed) said the supporter made a lot of difference to their child;
- 45 (44%) said the supporter made it possible for their child to go to court (broken down by scheme, those who said 'the supporter made it possible' ranged from 31% to 60%, with a pattern of ratings similar to those assigned by the children).

Twenty-nine scheme-supported parents and carers (28%) said there was a point when they thought that they would not let their child testify, as did 13 out of 39 in the comparison group (33%). When asked what helped them continue, significantly more of those in the scheme-supported group (14 or 48% of the 29) mentioned support than those in the comparison group (2 or 15% of the 13).

A significantly higher proportion of scheme-supported parents and carers (84 or 82%) concluded that support had been provided at about the right time than those in the comparison group (11 or 28%).

Many parents and carers in the scheme-supported group praised the service provided:

“My children greatly benefited from all the service’s input. They answered all questions honestly but were reassuring to the children both verbally and in person prior to, following and at the time of the trial. Invaluable”.

(parent of girl, 14, and boy, 15)

“They were fantastic. They helped get the TV link, came to the house and explained everything and said the kids were not on trial. It was far and away more than what I expected. I would go to 10 Downing St to say how wonderful this service is. It made all the difference to me and my kids”.

(parent of girl, 14, and boy, 16)

Parents of comparison group witnesses expressed appreciation for the support received from the court-based Witness Service.

Views of parents and carers in general on the adequacy of the support provided at various stages in the process are analysed in chapter 4. This shows that parents of scheme-supported witnesses were significantly more likely to view as adequate contact before, during and after trial. Scheme-supported parents and carers were also significantly more likely than those in the comparison group to report having been kept informed about case progress and having had a number to call if they had any questions (see the Impact on ‘No Witness No Justice’ objectives section below).

Whether schemes added value for the criminal justice process

The willingness of witnesses to give evidence is a key factor in the effectiveness of the criminal justice system. For those who have given evidence once, willingness to do so again is an indicator of their whole experience in the system. Those in the scheme-supported group were more willing than their counterparts in the comparison group to contemplate giving evidence again, however the differences between the groups were not statistically significant. Just over half the young witnesses in both groups who gave evidence felt they had been treated fairly; again, the difference between the two groups was not statistically significant. Across both groups, young interviewees who felt they had been treated fairly were more likely to be willing to give evidence again in the future: the difference in this respect with those who felt unfairly treated was statistically significant.

Increasing the willingness of the police and CPS to bring prosecutions

Police and CPS personnel in focus groups and surveys indicated that, in their opinion, the availability of young witness support services had no impact on decisions to charge the offender, which had to focus on the strength of the evidence. However, at least in the experience of many police officers, availability of specialist support influenced decisions of parents and children about whether to make a statement to the police and take a case forward.

“The service is a good negotiating tool for officers when they are talking to families who are very nervous about giving an evidential statement. It helps to be able to tell them about the available support when talking to them about going ahead”. (Police)

Information from supporters was also thought to assist the CPS in determining the witness's willingness and ability to give evidence:

"The scheme makes a difference, because if you have a vulnerable witness wondering if they can give evidence, the availability of the scheme could influence the decision. The support package gives you greater confidence in relying on young witnesses to be able to give their evidence". (CPS)

"Information from the scheme can affect the decision to proceed to trial. If we are told the witness is 'wobbly', it could mean we accept a plea or go for a caution". (CPS)

Barristers and solicitors were asked whether the availability of young witness support increased the likelihood of prosecution: 17 of the 36 surveyed (47%) thought it did, 10 (28%) thought it did not and the remaining nine (25%) did not know or did not reply to this question.²⁴

Gaining more successful outcomes to prosecutions

Specialist witness support is a single factor, and not the most significant, that may impact case outcomes. As one Witness Service manager put it:

"Where children have had a pretrial court visit, are well-supported and have had their memory refreshed, their levels of anxiety and distress are lower. They come in a state of confidence and give the best evidence they can. But this is different from affecting the quality of the evidence, which is either there or it is not."

None of the witnesses involved in this study refused or was unable to give evidence at trial (though some who attended were not required to testify: see chapter four).

Methodological problems encountered in measuring attrition were discussed in chapter 1. As described there, it was not possible to use national statistics on case outcomes to analyse the prevalence of attrition in cases involving child witnesses. Despite these difficulties, it was possible to explore in a limited way the impact of scheme support on the success of prosecutions by:

- examining outcomes in study cases and data collected by schemes;
- asking practitioners whether support schemes increased the likelihood of successful prosecution outcomes by enabling young witnesses to feel more comfortable about attending court ;
- asking practitioners whether support schemes improved the ability of young witnesses to give best evidence;
- asking practitioners whether availability of schemes affected defence plea decisions.

Comparing the outcomes of scheme-supported and comparison group study cases is complicated by a number of factors. More than one witness was involved in 26 study cases, including two involving both scheme-supported and comparison group witnesses. Excluding these two and counting the other 24 cases only once gives a total of 117 cases. The outcome was known for 115: 90 involving only scheme-supported witnesses and 25 involving only comparison group witnesses.

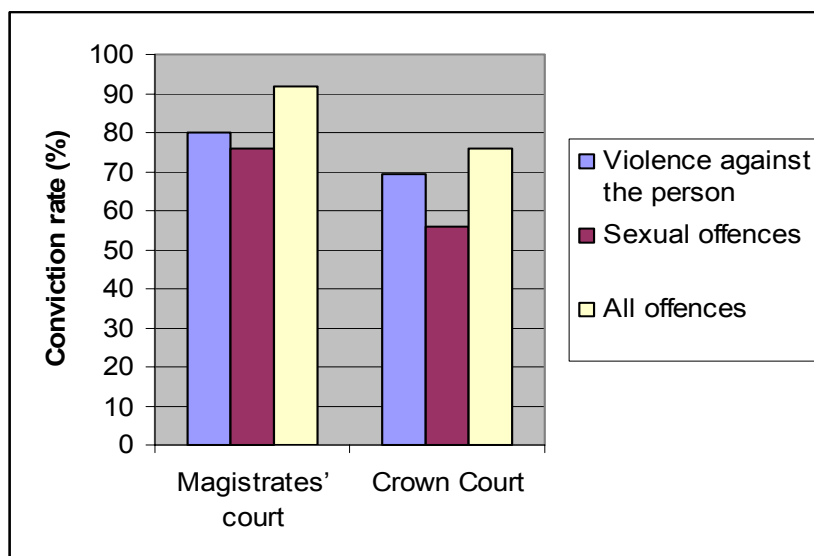
Other issues to bear in mind when comparing outcomes include:

²⁴ Unless otherwise stated, percentages quoted in relation to survey responses are of the total number responding to the survey.

- the level of court attended (60% of those in the scheme-supported group gave evidence at Crown Court, as opposed to 30% in the comparison group) ;
- the proportion who gave evidence (76% gave evidence in the scheme-supported group as opposed to 66% in the comparison group);
- the type of offence (60% of those in the scheme-supported group gave evidence about sexual offences, compared with 20% in the comparison group);
- the proportion of victims (73% of scheme-supported witnesses were victims compared with only 60% in the comparison group).

Figure 2.1 shows conviction rates in 2004 for all indictable offences tried in the magistrates' or youth courts and the Crown Court. The rates for sexual and for violent offences are shown separately.²⁵

Figure 2.1 National conviction rates for indictable offences in 2004



Crown Court conviction rates were lower than in the magistrates' or youth court, and sexual offences had a lower conviction rate (and a higher not guilty plea rate) than offences overall.

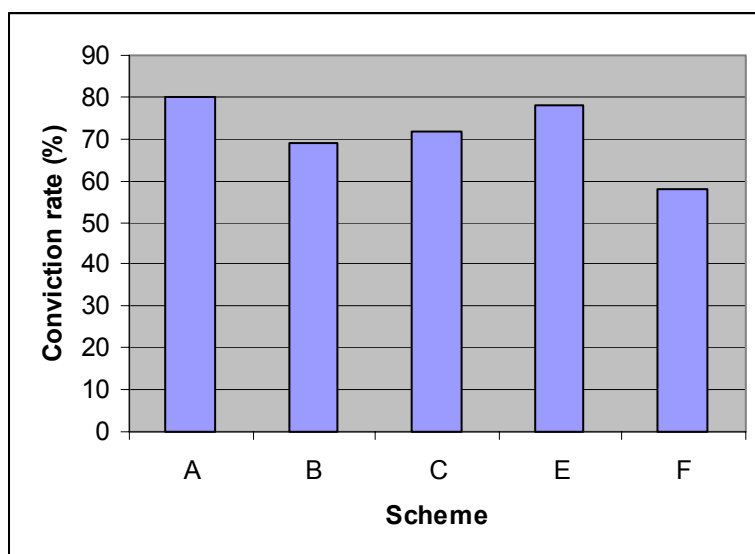
A comparison of the conviction rates for the 115 study cases for which an outcome was known showed that, while conviction rates were slightly higher for the comparison group (20 out of 25, or 80%) than the scheme-supported group (64 out of 90, or 71%), the difference was not statistically significant.

It is possible to reduce the impact of the differences in the cases that make up the two groups by selecting subsets, for instance cases heard in the magistrates' or youth court; cases involving a sexual offence; cases involving a victim-witness in the study; and cases in which a witness in the study gave evidence at trial. However, none of these subsets yields a difference in conviction rates between the two groups that is statistically significant.

Schemes were asked about the outcome of cases involving a young witness they had prepared for court in the year ending 31 March 2005. The level of detail provided differed between schemes and so only the following simplified breakdown can be provided (Scheme D was unable to provide figures):

²⁵ These figures were provided by the Office for Criminal Justice Reform, drawing on published Home Office criminal statistics for 2004 at www.homeoffice.gov.uk/rds/crimstats04.html.

Figure 2.2 Conviction rates for cases involving scheme-supported witnesses in year ending 31 March 2005



The conviction rates should be viewed in the context of the differing groups of young witnesses targeted by the schemes and the variation in the number of young witnesses supported annually (between 46 and 458) as set out in Table 1.1. The low conviction rate for Scheme F figures can be explained by the fact that this scheme dealt only with abuse cases (principally sexual offences) in the Crown Court. As illustrated in Figure 2.1, such cases are associated with lower conviction rates. Data provided by schemes were insufficiently detailed to allow an analysis of the significance of differences between conviction rates.

Impact on attendance at court

It was a study objective to examine whether the availability of young witness schemes increased successful prosecution outcomes by enabling young people to feel more confident about attending court. Although schemes explained that it is not their responsibility to ensure that the witness turns up to court, all reported that they would notify criminal justice personnel if a witness was reluctant to attend trial.²⁶ However, police and CPS focus groups and surveys expressed mixed views as to whether young witness schemes consistently forwarded such information.

Trials unable to proceed because of witness non-attendance account for significant wasted resources in the criminal justice system. There are no national statistics about the proportion of young witnesses who fail to attend to give evidence, although estimates indicate that four per cent of prosecution witnesses under 16 fail to attend Crown Court trials, and 12 per cent in this category fail to attend at the magistrates' court.²⁷ Scheme figures indicated that the proportion of supported young witnesses who failed to attend trial in the year ending 31 March 2005 was between zero and two per cent in four schemes and seven per cent in a fifth scheme that primarily supported victims of abuse, which may explain the higher rate of non-attendance.

Twenty-nine out of 36 barristers and solicitors (81%) and nine of 11 court-based Witness Service

²⁶ Five schemes notified the police officer in the case and the CPS if a witness was reluctant to attend trial; the remaining scheme passed this information directly to the Witness Care Unit. One scheme had a form for passing such information.

²⁷ The estimates are based on twice-yearly two week Witness Monitoring Surveys conducted by the Department of Constitutional Affairs (unpublished). Child witness categories are based on small sample sizes and 'should be treated with extreme caution': email to the authors from Department for Constitutional Affairs, 6.10.06. Estimates for non-attendance of adult prosecution witnesses are 7% in the Crown Court and 15% in magistrates' court.

coordinators surveyed (82%) thought that young witness support made young witnesses more willing to attend court. In focus groups and surveys, nearly all police officers and CPS personnel familiar with their local scheme agreed.

Impact on ability to give best evidence

Assisting the witness to give 'best evidence' means the best evidence that the witness is capable of giving.²⁸ Similar proportions in both scheme-supported and comparison groups reported problems with questions but scheme-supported witnesses were better able to tell the court their story and deal with problems that arose during questioning.

Practitioners surveyed were asked whether, in their view, preparation for court contributed to a young witness's ability to give best evidence. Over 80 per cent of magistrates and district judges, circuit judges, magistrates' court staff and court-based Witness Service coordinators thought it did. Around two-thirds of solicitors and barristers who responded (25 out of 36 or 69%) thought preparation made such a contribution.

Across police and CPS focus groups and surveys, the majority believed that scheme preparation for court improved children's ability to give best evidence, although several participants thought this could not be assessed in isolation from strength of the evidence, the child's personality and the rigour of the cross-examiner. A majority of other criminal justice practitioners responding to surveys considered that preparation for court contributed to a young witness's ability to give best evidence.

Impact on plea decisions by the defence

Twelve of the 36 barristers and solicitors surveyed (33%) thought that the availability of support and preparation for young witnesses increased the likelihood of a guilty plea; 16 (44%) did not think support made a guilty plea more likely and the rest did not know if it did or not. Police and CPS focus groups observed that defendants in young witness cases, and child abuse cases in particular, were more likely to plead not guilty and were divided about the impact of young witness support on the plea. Although the majority thought that young witness support had no direct impact, many believed that it had a 'knock on' effect on late plea decisions, because young witnesses who had been prepared for court were more likely to attend to give evidence.

Impact on 'No Witness No Justice' objectives

The study looked at the contribution of young witness support schemes to meeting specific 'No Witness No Justice' objectives, namely to make support available to meet identified need and be more responsive to individual requirements and to achieve clarity of each agency's roles and responsibilities for witness care.²⁹ The observations relate only to the initial stages of the 'No Witness No Justice' programme which was still being rolled out when fieldwork for this study was undertaken and may not therefore reflect current practices.

Making the criminal justice system more responsive to individual witness requirements is dependent on passing accurate and up-to-date information to decision-makers.³⁰ The chain of communication of information about young witnesses begins with the police.

²⁸ 'Best evidence' is not defined in the glossary of 'Achieving Best Evidence in Criminal Proceedings', Home Office *et al.* 2001. The Foreword says "The Youth Justice and Criminal Evidence Act 1999 set out a range of special measures to assist vulnerable or intimidated witnesses, including children, to give their best evidence in criminal proceedings".

²⁹ Schemes also contribute to delivery of most of the 'seven priorities' to increase victim and witness confidence established by the National Criminal Justice Board, for example, offering emotional and practical help, meeting the needs of vulnerable witnesses, ensuring that victims' views are sought and used in the criminal justice process and improving the experience of going to court, Office for Criminal Justice Reform 2005.

³⁰ The practice of the police and young witness schemes in passing on witness information is described in more detail in chapter 3.

- In study cases, supporters reported that the police had passed on information to the young witness scheme about the needs of only 35 young witnesses (32%).³¹
- In the supporter survey, 20 (29%) said that police forms referring witnesses to schemes identified witness needs in most cases, while 32 (47%) said officers rarely if ever did so.³²

It is therefore particularly important that young witness supporters pick up and pass on to the CPS any witness needs or concerns not previously identified and update any personal circumstances, particularly affecting the witness's well-being, that change before trial. Whether such information was routinely passed on varied across schemes and supporters. The discussion in chapter 3 shows that scheme supporters passed on information to criminal justice personnel in relation to 68 (62%) witnesses. CPS focus groups and surveys reported a mix of experiences: in some areas, the CPS relied heavily on feedback from supporters about individual witnesses; counterparts in other areas were often unaware even whether a young witness was supported by their local scheme.

The judiciary received information about how young witnesses wished to give evidence more often than they did about witnesses' needs (e.g. concentration span).³³ Thirty-eight magistrates and district judges (73% of the 52 who answered this question) routinely received information about young witnesses' wishes, as did 18 out of 29 circuit judges³⁴ (62%). This compared with routine receipt of information about young witness needs reported by 33 out of 54 magistrates and district judges (61%) and 14 out of 29 circuit judges (48%). Some judges emphasised that young witness information should be available at the plea and case management hearing³⁵ but indicated (reflecting the previous responses) this did not happen systematically.

It is a 'No Witness No Justice' objective to ensure that each agency is clear about its roles and responsibilities for victim and witness care. The effectiveness of referrals to schemes depended on inter-agency cooperation: scheme coordinators felt that benefits (such as referring to young witnesses in local objectives) would flow from greater Local Criminal Justice Board 'ownership' of young witness issues. (The extent to which schemes were perceived to be full 'partners' in local criminal justice networks is discussed in chapter 5).

Schemes were overwhelmingly positive about the impact of Witness Care Units. These Units, which were rolled out during the study, undertake a full witness needs assessment when a not guilty plea is entered, following on from the limited needs assessment to be undertaken by the police at the point of taking a statement. Guidance for Units emphasises that delivering against identified needs is expected to increase witness satisfaction levels and increase witness attendance at court.³⁶ The needs assessment is 'custom made and standardised to elicit the information relevant to the Witness Care Officer's specific function. If, through this process, the Witness Care Officer identifies or suspects other wider needs, then they would refer to the appropriate specialist who may undertake the more detailed assessment to address specific needs'.³⁷ All Witness Care Officers have also been provided with a child

³¹ 'No Witness No Justice' requires that a witness statement includes an initial needs assessment by the police.

³² These findings were consistent with a recent study, Burton *et al.* 2006, describing widespread police failure to identify witness vulnerability; that study also found that where the police failed to flag eligibility for Special Measures, the CPS seldom picked this up.

³³ Judges in interview explained that they could seldom identify whether information about the young witness originated with young witness supporters as nearly all such information is provided either on applications for Special Measures or by counsel.

³⁴ The 29 judges comprised 19 who responded to the survey and a further ten who were interviewed in person.

³⁵ Question 18 of the form 'Plea and case management hearing in the Crown Court' asks if any witness has special needs for which arrangements should be made. The 'Supplementary Pretrial Checklist for Cases involving Young Witnesses' (Form 5122A) has fallen out of use.

³⁶ 'No Witness No Justice' CPS/ACPO/OCJR/OPSR Victim and Witness Care Project Needs Assessment, Criminal Case Management Programme, July 2004.

³⁷ Email to authors from NWNJ Project Office, 4.10.06.

witness checklist and explanatory notes.³⁸

In each area, discussions were ongoing about the respective responsibilities of Units and support schemes for contact with young witnesses and, in particular, assessment of needs.³⁹ Thus in scheme B's area it was agreed that the scheme, rather than the Units, would assess need and convey information about court dates to those witnesses with whom it had contact. Scheme F agreed to send the Witness Care Unit the first page of its completed assessment to avoid the Unit having to repeat questions to families. Young Witness Pack distribution was an area of potential overlap: it was a core responsibility for supporters, as well as being required of Witness Care Units in the Victims' Code of Practice (para 6.6, Office for Criminal Justice Reform, 2005).⁴⁰

The 'No Witness No Justice' objective about clarity of agency roles and responsibilities for witness care was also relevant to the relationship between young witness schemes and the court-based Witness Service.⁴¹ In some areas they collaborated closely, for example, where schemes alerted the Witness Service to young witnesses who had declined support, and where they liaised to ensure parents were supported at trial; in others there was little contact. At some courts it was routine practice for young witness supporters not to attend trial but to 'hand over' to the court-based Witness Service. This disruption in continuity was contrary to National Standards for Young Witness Preparation (Home Office *et al.*, 2002, appendices F and J) and practice recommended by Victim Support. Some young witnesses were critical that their supporter had not come to court.

'No Witness No Justice' aims to provide a single point of contact and regular information to witnesses. Witnesses and their parents or carers were asked about their experience in this respect. (Percentages in the following table are of the number who responded to the question).

³⁸ CPS Policy Directorate, April 2005.

³⁹ 'Individual assessments of the needs of child witnesses and tailored support to address those needs' form part of the work of Witness Care Units: Director of Public Prosecutions, Ken McDonald QC, press statement 1 December 2004. However, the Association of Chief Police Officers has pointed out that these are unlikely to deal with all the issues that would be addressed by a specialist supporter.

⁴⁰ In areas with no specialised young witness service, Witness Care Units ensure that young witnesses receive Pack materials.

⁴¹ Victim Support standards require the service to be 'integrated with the work of other agencies so that victims and witnesses receive an effective service'.

Table 2.2 Keeping witnesses and their parents or carers informed

	Scheme-supported group		Comparison group		Statistically significant difference
	No.	%	No.	%	
Young witnesses who said they were kept informed about case progress (n=104 for scheme-supported group; n=36 for comparison group)	76	73	15	42	*
Parents and carers who said they were kept informed about case progress (n=102 for scheme-supported group; n=37 for comparison group)	83	81	11	30	*
Parents and carers who had a number to call if they had any questions (n=103 for scheme-supported group; n=39 for comparison group)	95	92	20	51	*

Scheme-supported witnesses and their parents and carers were more likely than those in the comparison group to report having been kept informed about case progress and having had a number to call if they had any questions.

Policy and practice in relation to transporting witnesses differed across the six schemes. Victim Support National Office recommends to its services that transportation be offered by other organisations such as the police. In respect of the other four schemes in the study, the proportion of parents and carers offered transportation by the supporter varied between 18 and 84 per cent. In total, 26 per cent of offers of transportation by a supporter were accepted.

Providing a level and type of service that was unavailable elsewhere

It was a study objective to examine the extent to which specialist schemes provided a level and type of service that was unavailable elsewhere in the criminal justice system. Police and CPS focus groups praised the contribution of the court-based Witness Service in dealing with young witnesses at trial. However, those familiar with specialist young witness schemes agreed that they provided a level of service (for example, assessing witness needs and wishes, conducting home visits and passing on information to criminal justice personnel) that the Witness Service was unable to offer. This was due in part to the Witness Service's limited resources for provision of support (including home visits) in the pretrial stage.

An important by-product concerned tasks undertaken by specialist young witness schemes that relieved other criminal justice agencies of work. The extent to which they were perceived as doing so was linked to whether supporters passed on information about the young witness⁴² and also on whether the supporter attended court with the witness on the day of trial. While police officers accepted that schemes could not relieve the police of responsibility for basic witness liaison, most thought that supporter involvement saved police time pretrial in responding to

⁴² Scheme B, for example, sent to the CPS: police forms referring the witness to the scheme; supporter contact details; notice that support or a pretrial familiarisation visit had taken place and Young Witness Pack materials had been used; a form supporting Special Measures applications; and a young witness profile form.

queries.

In most areas, child protection officers had been pleased to relinquish time-consuming young witness preparation to young witness schemes. However, one force's family support units had retained responsibility for young witness preparation in abuse cases. These officers welcomed the possibility of a specialist service taking the role from them. Similarly, in a different fieldwork area where the young witness scheme served only part of the force, officers within the scheme catchment area said that it "definitely saves us a large chunk of time". Officers outside the area said they had to "pick up a lot of young witness work that our colleagues don't. The difference in levels of service is stark, yet could be a matter of a difference between two children a few streets apart".

The police and CPS highlighted the contribution of four schemes in assessing witness needs and passing on information. CPS focus groups agreed that, when supporters attended court (as happened routinely for three of these schemes), this saved them time because supporters responded to witness questions and kept families up to date on case status. However, a few caseworkers were unhappy when supporters raised questions about why witness wishes had not been accommodated; the caseworkers thought that sometimes this was due to a lack of familiarity with eligibility criteria on the part of supporters.⁴³ This revealed training issues for both sides: CPS personnel needed to 'take on board' the supporter's advocacy role; supporters needed greater understanding of criteria for eligibility for Special Measures and an appreciation that questions about prosecution decisions should not be raised in the witness's presence.

Conclusion

The evaluation identified a range of concrete benefits to young witnesses and their parents and carers who were supported by specialist schemes. Added value in respect of criminal justice objectives was indirect but nevertheless significant in the view of criminal justice practitioners. Benefits could be further increased in light of findings described in the following chapters.

⁴³ The position as to whether young witnesses can opt out of TV link use is complex. Judges differ about whether they have discretion to make this change in the interests of justice.

3. Referral to young witness support schemes and witness assessment

This chapter describes the referral arrangements operated by the six schemes in light of Objective 5, to identify aspects of good practice. It identifies gaps in availability of young witness services across criminal justice areas. The chapter follows the process of referral of young witnesses from identification through initial contact with the family to assignment of a supporter, assessment of witness needs and passing on of information about the young witness.

Scheme referral arrangements

Ensuring that specialist services are made available to young witnesses depends on frontline personnel's awareness of what is on offer. Five schemes employed a variety of methods to make known their services to criminal justice agencies, social services departments and other relevant organisations. These included contributing to inter-agency training, briefing police groups and distributing publicity materials to criminal justice personnel. The sixth scheme said that had not publicised the scheme because all referrals came from the police.

Five schemes had a written inter-agency protocol with the police addressing how referrals should be made to the scheme, though some acknowledged it needed to be updated since the introduction of Witness Care Units. The most recently established scheme had deferred the development of such a protocol until Witness Care Unit roll out was completed. All schemes worked with witnesses aged up to 17 at the time of referral. In the year ending March 2005, 2,076 witnesses were referred to the six schemes in the study (ranging from 83 to 959 per scheme).

The schemes were located in five criminal justice areas (two operated within the same area). As previously noted, scheme terms of reference and ability to serve large numbers of witnesses differed. Terms of reference for three schemes (B, C and E) envisaged referral of all young witnesses across the criminal justice area, irrespective of type of court or offence. However, only one scheme (scheme B) delivered what seemed to be comprehensive coverage. It reported that its combination of referral and safety net procedures (to identify witnesses previously missed) resulted in nearly all young witnesses being referred.⁴⁴ This scheme also felt that its panel of 120 supporters was adequate to cope with all referrals. Both C and E acknowledged gaps in referrals received. Scheme C estimated that a considerable proportion of young witnesses was missed – perhaps up to 50 per cent – with particular gaps in referral of youth court witnesses and at specific magistrates' courts. Scheme E received most child protection cases, but not young witnesses involved in 'less serious' magistrates' court cases⁴⁵ or those attending one local Crown Court which received witnesses not resident in the county who were therefore not referred to the scheme. The effectiveness of Witness Care Units in identifying young witnesses previously overlooked, coupled with the extension of Special Measures in the magistrates' and youth court, meant that all schemes anticipated an increase in young witness caseloads. At the time the evaluation was conducted, schemes C and E acknowledged the possibility of having to prioritise acceptance of referrals in future due to resource constraints. One of these schemes used paid supporters and the other used volunteers; however, both felt that their current resources would not cover any substantial increase in referrals.

The other three schemes did not cover all young witnesses within their criminal justice area. Scheme F was confined to young witnesses attending the local Crown Court in abuse cases or involving 'significant harm'. For other types of young witness and those outside the

⁴⁴ The view that the scheme missed very few witnesses was confirmed by local criminal justice practitioners.

⁴⁵ According to the scheme, in these cases often the young witness is older and declines support.

scheme's catchment area, the type and level of support was uneven and less systematic, coming from some social services departments or CPS caseworkers. Where no other support service was available,⁴⁶ police child protection officers were expected to arrange familiarisation visits to court and prepare victims but they did not have Young Witness Pack materials (the police are usually the local holders of these materials).

The services provided by schemes A and D operated within the same criminal justice area. The picture of young witness support across the area was complex. Support was provided by:

- police family support units in child protection cases;
- scheme D (targeting young witnesses not supported either by police family support units⁴⁷ or scheme A);
- scheme A (for all young witnesses within one local authority area, including those dealt with by the police family support unit but not those from other police basic command unit areas who also gave evidence at scheme A's local Crown Court).

Scheme A acknowledged that some young witnesses failed to be referred where they were dealt with by uniformed officers or had given a written statement and an application for Special Measures had been overlooked. Towards the end of the study, a fourth source of young witness support was planned for this criminal justice area. The police and CPS focus groups acknowledged that the preparation for court of young witnesses in some of the most serious abuse cases was often unsatisfactory because the support provided by police family support units was 'limited'. The police were therefore partners in the planned extension of forensic services offered to young victims by a sexual assault referral centre. This initiative will include support and preparation for court victims of acute sexual assault, familial and ongoing sexual abuse. The role will provide and link in to services across the whole criminal justice area. The first phase of this new service opened in February 2006.

Other sources of referral

In addition to making a statement to one of the 43 regional police forces, young witnesses in a criminal case may make a statement to the British Transport Police; testify at a courts martial or give evidence for the defence. They may also be asked to give evidence in respect of anti-social behaviour orders, sex offender orders, domestic violence applications or other civil proceedings, or be asked to testify in the coroner's court. Overall, schemes reported few such referrals ((none reported referrals concerning domestic violence civil applications or the coroner's court) but those with experience of other types of witness found that they too needed support and explanations about the procedures involved.

Five of the six schemes reported receiving occasional referrals of defence witnesses. Only six of the 36 barristers and solicitors surveyed (17%) had referred a young defence witness for pretrial familiarisation by the court-based Witness Service (five instances) or their local young witness service (one instance). Despite this, 23 (64%) reported that local pretrial familiarisation services were available to young defence witnesses. However, 12 (33%) were not satisfied that such services could be accessed by young defence witnesses: reasons included the lack of recognition of defence witness need, a lack of publicity about the availability of services and the fact that services were geared to prosecution witnesses.

All but one scheme accepted self-referrals. Two had distributed leaflets in locations where families might see them; one had placed posters in schools and had items in the local media. However, none of the six schemes had received more than ten self-referrals in the preceding

⁴⁶ The Witness Service at the local Crown Court stated that it had no role with scheme-supported witnesses and little involvement with other young witnesses not supported by the specialist scheme.

⁴⁷ In consequence, Victim Support acknowledged that young witness supporters had not been trained to deal with the child abuse cases handled by police family support units.

six months.

Obtaining consent

No scheme reported problems with the process for obtaining consent for referral to the scheme but requirements differed. Two indicated that the consent of the witness, or the witness's parent or carer, was sought by the police prior to referral. Three required consent to be recorded on the police referral form (one form also asked for the date on which the family were informed as 'a gentle reminder to ensure that the family were asked'). Scheme F's form asked the police to record whether the referral had been discussed with the child or carer, whether the child had been given the scheme's information leaflet and whether the family would prefer initial contact by phone or letter. The most straightforward approach was employed by scheme B, as this facilitated the scheme in explaining its services directly. Information about the scheme was given to the witness at the time a statement was taken but consent was not formally recorded at that stage. If agreement was given, witness contact details were then passed to the scheme (part of the data sharing arrangements of the Local Safeguarding Children Board for 'children in need'⁴⁸). Families could decline the offer of support when contacted by the coordinator but very few did so. This approach was not available to schemes managed by Victim Support, which are subject to the Code of Practice for Victims of Crime. The Code states that the police should only pass Victim Support the details of victims of sexual offences if the victims or relatives have given their explicit consent (para 5.6, Office for Criminal Justice Reform, 2005).

Timing and method of initial referral and contact

The police referred young witnesses to four schemes (all but schemes A and D) at the point of charge. Referral forms were generally sent by fax. Early notification enabled schemes to inform witnesses and parents or carers about the services available in the event of the case going to court (sometimes before the indication of the plea). As one scheme manager put it, "this service is about the child's emotional welfare and not about whether the case goes to court".

When scheme A began, its referrals were mostly received following entry of a not guilty plea, although it was in the process of moving to earlier referrals post- (and in some cases pre-) charge. For scheme D, many referrals were also made at a later stage, often by receipt of the List of Witnesses to Attend Court (LWAC) from the CPS or Witness Care Units. This scheme's terms of reference excluded referrals from police family support units, which prepared their own witnesses for court. Child protection referrals (which formed 'core business' for other schemes) are the ones most easily identified. Because of the fragmented approach across this criminal justice area, the potential numbers involved, the size of the police force, and the fact that LWACs were not a reliable source for identifying young witnesses,⁴⁹ scheme D faced the greatest challenge in having young witnesses referred. As a result, it focused on those young witnesses within its terms of reference who were actually required to attend court.

All six schemes made initial contact with the parent or carer (or directly with 'upper end' teenage witnesses) within a few days of receipt of the referral form. The coordinator generally made the initial contact. Four schemes did this by letter; two did so by phone. One followed up the letter with a phone call; another followed the phone call with a visit. Phone contact with families required flexibility of working arrangements as calls often needed to be made out of office hours.

Written information provided by all schemes covered complaints procedures and an

⁴⁸ Section 17, Children Act 2004.

⁴⁹ Scheme B monitored the proportion of LWACs failing to identify a witness as a child. It found that the witness's juvenile status had been omitted on up to 25 per cent of forms. Scheme coordinators considered that the accuracy of LWACs in flagging young witnesses should be monitored by Witness Care Units.

explanation that the child's evidence would not be discussed; five addressed what would happen if the child talked about the evidence; and three covered multi-cultural policies, what information would be held about the child and whether access to this information could be requested. Three schemes required witnesses and/or their parents or carers to sign a written agreement about the work to be undertaken.

Safety net arrangements for referrals to a specialist scheme

Among 41 comparison group witnesses, 27 (66%) were not offered the support of a young witness service. These were drawn from all areas except that of scheme B, where the offer of support is made to almost all young witnesses across the area. Ten witnesses not offered support came from the area of scheme D and eight from the area of scheme E. The other three areas each had five or fewer witnesses who had not received an offer of support. One witness from the area of scheme F said that the police had mentioned the possibility of such support but no-one contacted them subsequently.

All schemes were aware of the importance of safety net procedures to identify witnesses within their terms of reference who were not initially referred to them. Like referrals, the success of these procedures depended critically on the quality of local inter-agency cooperation; at least one scheme considered procedures for subsequent identification as 'patchy'. Newly instituted Witness Care Units were described as the most important mechanism to identify young witnesses previously missed, with the potential to produce a marked increase in overall referrals. Other sources of information included LWACs, Special Measures application forms sent by the CPS and information from the Witness Service and courts.

Scheme B had instituted a series of effective safety net procedures. It was the only scheme to involve the courts for this purpose. The scheme sent a weekly list of young witnesses and their cases to Crown Court centres and magistrates' courts in its area. The courts in turn screened Special Measures applications for any young witness cases not already known to the scheme⁵⁰ and provided updated case information. The scheme followed up with police file teams any previously missed cases.⁵¹ Court liaison was seen as time-intensive but useful in identifying not only missed referrals but also Special Measures applications that had been granted and the entry of a guilty plea in cases with a young witness who had already been referred.

Most scheme coordinators considered that it was important to find out why witnesses declined pretrial support and to renew the offer before the trial. Explaining the services on offer may reassure families and cause them to reconsider. Among the 41 comparison group witnesses, 12 (29%) were initially offered the support of a young witness service but declined. At least six of these subsequently regretted their decision but none referred to a further offer being made. Indeed, one carer who initially declined then asked for support but was told this request was 'too late'.

Four schemes followed up with a further offer of support if consent was initially withheld. Scheme A did so immediately on the basis that some families thought that where the child had made a video interview, there would be no need to go to court (police officers were not always sufficiently clear about this). The other three schemes waited until it was known the case was going to trial. Follow-up arrangements also involved the Witness Care Unit and court-based Witness Service. For example, where scheme B's offer of support was declined again, the scheme notified the Witness Care Unit and also the court-based Witness Service which offered support at trial; in scheme D's area, an information leaflet about the scheme was sent out by Witness Care Units with all trial date notices to witnesses. In scheme E's

⁵⁰ Magistrates' courts sometimes alerted the scheme to a young witness case even before the police had submitted a 'full file' to the CPS.

⁵¹ Cases which had fallen through the net included special investigations where the file had not gone through police file teams – the primary source of initial referrals to the scheme.

area, if young witnesses were not supported by the scheme, the court-based Witness Service facilitated familiarisation visits and supported young witnesses and carers at trial.

Assessing young witnesses' needs and passing on information

Key tasks identified by the National Standards for Young Witness Preparation (Home Office *et al.*, 2002, appendix J) include assessing witness needs and communicating information (including the young person's wishes) to and from the police, CPS and courts, keeping the young person, parent or carer informed and ensuring that practical arrangements are made for the young person.

Two schemes routinely made early personal contact. In scheme B, the coordinator made an initial assessment following contact with the police officer and a phone call to the parent or carer. The supporter in scheme F offered to visit the family following referral; this was almost always accepted. During the visit, she explained about the service on offer and assessed the witness's needs (including whether a referral for pretrial therapy was necessary). The supporter and young witness together decided what preparation sessions were needed and whether this should include an early visit to the court.⁵² Young Witness Pack materials were supplied. The child was given an information booklet to record questions and worries. The supporter also assessed the support needs of the parent or carer and asked if they wanted a volunteer to contact them pretrial and accompany them at trial.

Scheme F's single supporter worked with all young witnesses referred to it. Across the other five schemes, assignment of the supporter sometimes depended as much on availability and geography as on matching the skills of the supporter to the needs of the individual witness. A key support task listed in the National Standards for Young Witness Preparation (Home Office *et al.*, 2002, appendix J) is deciding when witness preparation should begin, bearing in mind the trial date. Unless a specific need was identified for support at an earlier stage, supporters were generally allocated once the defendant had entered a 'not guilty' plea. Four schemes provided a figure for the proportion of referrals resulting in allocation of a supporter, ranging between 49 and 55 per cent. These figures reflect the proportion of the initial referrals that resulted in a criminal trial (i.e. more than 50% of the original referrals involved cases that did not result in a trial and, therefore, no supporter was allocated).

Study referral forms indicated that 26 witnesses⁵³ (24% of the 108 witnesses for whom information was provided) had learning or physical difficulties, communication needs, Attention Deficit Hyperactivity Disorder, hearing difficulties, autism, extreme anxiety or vulnerability due to very young age or the effects of long-term abuse. Scheme supporters passed on information to criminal justice personnel in relation to 68 (62%) witnesses: for 47, this concerned difficulties they might have in answering questions and for 43, it related to concentration span.

Practice in relation to needs assessment and information handling reported in the survey of supporters is set out in the following table. Not all respondents answered every question:

⁵² Early court visits helped establish the young witness's views about Special Measures prior to the CPS making formal application to the court. The CPS was provided with a copy of the preparation case plan and agreement.

⁵³ Two of these 26 were from the comparison group; the other 24 were scheme-supported.

Table 3.1 Survey of supporters: practice on assessing needs and wishes and exchanging information with others (n=68)

Action	Supporters who never did this		Supporters who did this for less than half of young witnesses		Supporters who did this for half or more young witnesses		Supporters who did this for all young witnesses	
	No.	%	No.	%	No.	%	No.	%
Assessed needs	1	1	5	7	7	10	52	76
Requested info from parent or carer	3	4	3	4	14	21	43	63
Requested info from other agencies	26	38	18	26	11	16	9	13
Passed on info about witnesses' needs	7	10	8	12	11	16	39	57
Passed on witness wishes about Special Measures	6	9	7	10	11	16	41	60

Only 52 supporters surveyed (76%) always assessed witness needs and only 39 (57%) always passed this on to criminal justice personnel. A majority of respondents did not routinely request information from other agencies.⁵⁴ Only eight supporters (12% of those surveyed) invariably carried out all five actions in the table above. If 'requesting information from other agencies' is excluded, 25 supporters (37%) always carried out the remaining four tasks in the table.

Five schemes passed on information about a young witness in writing: two did so by letter and three used a standard form.⁵⁵ Scheme B's form addressed family relationships (including supportiveness of the parent/ carer and contact with the defendant and other witnesses); the witness's confidence, abilities, concentration span and verbal/ language skills; stress indicators; health (including sleep patterns) and education (including disturbed sleep patterns); previous experience of court; and involvement with social services or other agencies.

Schemes said that information could be passed on pretrial either by the supporter or scheme coordinator; their most frequent pretrial communication was with the CPS, but information was also given to the police, Witness Care Unit, court personnel and the court-based Witness Service.⁵⁶ Five schemes also passed on information orally on the day of trial.⁵⁷

Scheme policies varied as to whether witness consent was needed in order to pass on

⁵⁴ Five schemes reported obtaining information about young witnesses from social services departments. Access to records was possible for schemes A and B because of their Area Child Protection Committee status.

⁵⁵ However, supporters in the survey indicated that information was most often passed on to criminal justice personnel by phone.

⁵⁶ The views of the police, CPS and judiciary about the receipt of information can be found in chapter 2.

⁵⁷ The ability to do this requires the presence of the scheme supporter at court.

information about them to the criminal justice system. Three schemes required consent. Written guidance from two of the three stated that the scheme could share information with the criminal justice system and this formed part of the initial agreement with the young person and parent or carer.

Conclusion

Specialist schemes were doing good work but not reaching their maximum potential in terms of assessing and reaching local young witness need. There were significant differences between schemes in the effectiveness of arrangements to refer young witnesses to the scheme; their terms of reference and catchment area (in relation to whom they could accept); and the quality of safety net procedures for identifying young witnesses who had previously been overlooked. Only one scheme aimed to serve all young witnesses in its criminal justice area. Supporters were not consistent in their assessment of young witnesses and in passing on information about the wishes and needs of young witnesses to others in the criminal justice process.

4. Supporting young witnesses

National Standards for Young Witness Preparation were set out in 'Achieving Best Evidence' (Home Office *et al.*, 2002, appendix J). This sets out good practice guidance but does not constitute a legally enforceable code of conduct (its status is advisory). The National Standards recommend levels of service to young witnesses. They do not stipulate who should provide the services and are therefore equally applicable to the work of specialist schemes such as those in the evaluation and to support from other sources, such as those available to the comparison group. The National Standards provide a starting point for study Objective 5, to recommend a best practice model, by providing a benchmark against which to judge whether support services represent good practice. They also assist in identifying features of a model scheme that would represent value for money in any national procurement exercise.

The National Standards describe the purpose of preparation as helping young witnesses to feel more confident and better equipped to give evidence; to understand the legal process and their role within it; and to encourage them to share their fears and apprehensions about the court process and thus assist them to give their best evidence. The Standards stress that preparation must not involve rehearsing or coaching the witness. These principles comply fully with the parameters of familiarisation set out by the Court of Appeal in *R v Momodou* [2005] EWCA Crim 177.⁵⁸

Findings in this chapter demonstrate that the support of young witnesses cannot be assessed in isolation from their experience of the court process. Delivery of a seamless service to young witnesses depends not only on support schemes but also on the contribution of the police, CPS, Witness Care Units, court personnel (listing officers, witness liaison officers and ushers) and the court-based Witness Service. Young witnesses' accounts of their court experiences are coloured, above all, by the approach of advocates and the judiciary. During interviews, children's assessments of the process were often affected by whether they were allowed to be accompanied by a supporter of their choice (applications are subject to a judicial decision) and whether advocates asked them questions politely and in words they understood.

The chapter compares practice in study cases and in fieldwork areas and draws on interview and survey responses. It describes the types of stress experienced by young witnesses; the number and types of contact between supporters and young people; support tasks pretrial, on the day of trial and while the young witness gives evidence; post-trial support and support of the parent/ carer.

Taking account of young witness stress

The government's 'Every Child Matters' programme aims to improve outcomes for children which include being healthy, making a positive contribution and staying safe.⁵⁹ A major justification for supporting young witnesses is that the criminal justice system demands a public duty from young people who are often particularly vulnerable.⁶⁰ A high proportion of

⁵⁸ In a case concerning 'witness training courses' for adults, the court distinguished between witness coaching, which is prohibited, and desirable arrangements to familiarise witnesses with the court process. The Bar Council's Professional Standards Committee took account of this in its 'Guidance on Witness Preparation', October 2005.

⁵⁹ [Http://www.everychildmatters.gov.uk](http://www.everychildmatters.gov.uk).

⁶⁰ A significant proportion of children have vulnerabilities other than age: the Office for National Statistics (2004) reports that one in 10 children in Britain aged five to 16 has a clinically recognisable mental disorder: <http://www.statistics.gov.uk/cci/nugget.asp?id=1229>.

young people in this study reported emotional and other difficulties in the pretrial period.⁶¹

In interviews which were conducted post trial, witnesses were asked how they felt during the pretrial period. Of the 107 scheme-supported witnesses and 37 in the comparison group who were interviewed:

- 93 scheme-supported witnesses (87%) and 30 in the comparison group (81%) reported experiencing symptoms of stress pretrial.⁶² These included self-harming, panic attacks, flashbacks of the offence, bed-wetting, headaches, eating and sleep disorders, depression, mood changes, loss of concentration and loss of confidence;⁶³
- these self-reports of pretrial stress occurred across all age groups; offence types and level of court; and were nearly as high for non-victims as for victims;
- 83 scheme-supported witnesses (78%) and 27 in the comparison group (73%) were worried about going to court;
- 32 scheme-supported witnesses (30%) and six in the comparison group (16%) felt intimidated by the offender or the offender's associates;
- 47 scheme-supported witnesses (44%) said that their school attendance or performance was affected, as did 11 in the comparison group (30%). Some were unable to take exams or did poorly; some were bullied as a result of the offence; and five dropped out of school altogether;
- professional help was sought for relatively few young people reporting symptoms of stress: 12 scheme-supported witnesses (13% of those reporting stress symptoms) and two (7%) in the comparison group reported seeing a GP, psychologist, psychiatrist or therapist.

Parents and carers reported levels of stress in their children that were somewhat lower than the young people's self-reports: those responsible for 66 scheme-supported witnesses (64% of the 103 parents interviewed in this group) and 15 comparison group witnesses (38% of 39 parents interviewed) said that their child had experienced symptoms of stress in the pretrial period. In 135 cases, both the young person and their parent or carer was interviewed. In these 135 cases, stress symptoms were reported by 45 young witnesses (33%) whose parents or carers judged that their child had not experienced stress. On the other hand, five witnesses (four of whom were boys) reported no stress symptoms although their parent or carer disagreed.

As noted in chapter 2, out of 107 scheme-supported witnesses, 33 (31%) said their supporter was what made it possible for them to go to court and 103 (96%) said their supporter made them feel more confident. However, this study was unable to measure whether the provision of support decreased young witness stress experienced before the trial, as all interviews were conducted post trial. Such a measure (e.g. Sas *et al.*, 1991) would involve assessment of the young witness when support services begin and again after court involvement is over.

Supporters have a role to play in bringing the effect of delay on a child witness to the attention of the court (it is not known whether this occurred in study cases). Research has shown the

⁶¹ As noted in chapter 3, study referral forms indicated that 26 per cent of witnesses for whom personal information was provided were described variously as having learning difficulties, communication needs, Attention Deficit Hyperactivity Disorder, hearing difficulties, autism, physical difficulties, extreme anxiety or vulnerability due to very young age or the effects of long-term abuse.

⁶² The numbers include all eight comparison group interviewees who were witnesses to a sexual offence and 46 out of 51 (90%) in the scheme-supported group who witnessed such an offence.

⁶³ One 12 year-old girl in the scheme-supported group said she began stealing from her parents and was fostered for three months.

negative impact of delay in court proceedings on children's mental health (Tedesco and Schnell, 1987; Watkins, 1990; Glaser and Spencer, 1990; Runyan *et al.*, 1988; Sas *et al.*, 1992; Spencer and Flin, 1993). Listing priority for young witness cases has been government policy since 1988; there were four re-statements of the policy in 2005.⁶⁴ Despite these commitments, there is no national monitoring of such cases and therefore no national statistics about how long they take.⁶⁵ Although Crown Court centres in the study attempted to apply the policy, young witness cases were not systematically flagged as such on receipt⁶⁶ and courts did not monitor them separately. None of the Local Criminal Justice Boards in the study routinely collected data about time to trial for these cases.

Information about the length of time cases were in the court process (to trial or other disposition) was available for 120 witnesses. The mean time overall was 8.35 months, with a minimum of one month (where a guilty plea was entered in a youth court case) and a maximum of 36 months (a case in the magistrates' court). Twenty witnesses (17% of the 120) waited a year or more for their case to come to trial. Youth court cases generally came to trial faster.

Adjournment information was available in respect of 145 witnesses. The first scheduled trial date was adjourned for 41 young witnesses (28% of the 145): for 26 (18% of the 145) the trial was adjourned once; for nine (6% of the 145) it was adjourned twice; and for two (1% of the 145) the trial was adjourned three times.

Stress reduction and anxiety management techniques

The 106 interviewed witnesses who gave evidence (82 scheme-supported and 24 in the comparison group) were asked about the experience.

Table 4.1 How young witnesses felt while giving evidence

	Scheme-supported witnesses (n=82)		Comparison group witnesses (n=24)		Total (n=106)	
	No.	%	No.	%	No.	%
Feelings						
Good/ confident	22	27	8	33	30	28
Angry	14	17	5	21	19	18
Sick/ scared/ upset	56	68	16	67	72	68

Note: Some reported experiencing more than one of the listed feelings and therefore responses do not sum to 100%.

When describing their feelings during cross-examination, both groups' experiences were very similar with around 80 per cent (85 of the 106) reporting one or more symptoms of stress

⁶⁴ Standard 13, Witness Charter consultation, Criminal Justice System 2005; para 4.3, CPS Children's Charter draft for public consultation 2005; p 11, 'Every Witness Matters: Employee Handbook' Her Majesty's Courts Service, 2005; Criminal Case Management Framework' Department for Constitutional Affairs 2005.

⁶⁵ 'In their own words' called for systematic monitoring and publication of relevant statistics, Plotnikoff and Woolfson 2004. Following the report's publication, the Deputy Chief Justice, Lord Justice Judge, wrote to all resident judges expressing concern that 'the average length of the process... is much longer than it should be'. He emphasised that addressing delay in Crown Court cases is the judiciary's responsibility.

⁶⁶ Special Measures applications tend to be flagged but these are not exclusively young witness cases. The questionnaire 'Plea and Case Management Hearing in the Crown Court' asks if special arrangements are needed for a child defendant but not for a child witness.

while giving evidence.⁶⁷ The section below 'Support to the young witness while giving evidence' shows that very few witnesses in either group were accompanied by a supporter of their choice (a source of emotional support).

Stress can decrease children's accuracy of recall but a supportive environment can help to counter this effect (Moston, 1992; Batterman-Faunce and Goodman, 1993). Key support tasks identified by the National Standards (Home Office *et al.*, 2002, appendix J) include providing the young person with stress reduction and anxiety management techniques. Supporters are expected to consider which techniques are appropriate for the young person's needs. 'Preparing young witnesses for court' contains guidance on recognising and dealing with physical signs of stress, for example, through controlled breathing and learning to relax tense muscles (NSPCC Young Witness Pack, 1998).

Use of stress reduction strategies was uneven in study cases (figures relate to all scheme-supported witnesses, not only those who gave evidence):

- referral forms indicated that relaxation techniques were used with 42 scheme-supported witnesses (41% of the 102 referrals for which the information was provided), drawn from all six schemes);
- relaxation techniques were used no more frequently with victims than with non-victims. Ninety-eight referral forms indicated whether or not the young witness was a victim 30 out of 73 victims (41%) were taught these techniques compared with ten out of 25 non-victims (40%)
- among the 107 scheme-supported young witnesses interviewed, 26 (24%) reported using relaxation strategies: 17 (16%) employed them before court; 12 (11%) used them at court and eight (10% of the 84 scheme-supported witnesses who gave evidence) used them while being questioned;
- 20 (77% of the 26 scheme-supported witnesses who reported using relaxation strategies) said they found the techniques helpful.

Providing information about relaxation techniques was associated with schemes that had a higher number of pretrial contacts with the witness (see Figure 4.1 below). In the survey of supporters, 14 (21% of the 68 responses) used relaxation techniques with all young witnesses and seven (10%) did so with half or more of them. In contrast, 17 (25%) supporters used them with fewer than half of young witnesses they supported and 24 (35%) said they never taught them.

One supporter emphasised the importance of building on strategies the young person already used to cope with stress: one of her witnesses reported that it had helped her to dance to her iPod while waiting to give evidence. Another witness who used relaxation techniques while giving evidence said:

"[Cross-examination] got me wound up because I thought I'd get muddled but I was prepared for it. I took deep breaths. I asked him in the beginning if I could have a gap between questions so I could answer properly." (girl, 16)

Pretrial therapy

'Therapy' covers a range of treatment approaches, including counselling. Preparation for court is a focused piece of work which is not therapy. Some criminal justice professionals believe that young witnesses should not receive pretrial therapy for fear of jeopardising the prosecution. This misconception was addressed by the practice guidance 'Provision of

⁶⁷ A Home Office survey indicated that 33% of young witnesses had been 'upset a lot' by cross-examination: B. Hamlyn *et al.*, (2005).

Therapy for Child Witnesses Prior to a Criminal Trial' which made clear that the best interests of the child are paramount when deciding whether, and in what form, therapeutic help is given and that this is not a decision for the police or the CPS (Home Office *et al.*, 2001).

Research for the Canadian Department of Justice found that young witnesses receiving pretrial therapy or counselling were better able to make use of the programme preparing them for court (Campbell Associates, 1992). However, little use was made of pretrial therapy in study cases: only three scheme-supported witnesses (3%) received pretrial therapy;⁶⁸ 11 parents (8%) said they had been advised (mostly by the police) not to seek pretrial therapy or counselling for their child. The mother of a 13 year-old girl in the comparison group who discussed counselling for her daughter (who was self-harming and having severe mood swings) with the police was told they 'would rather she didn't go ahead' until after the trial.

It is indicative of the stress levels involved that 29 scheme-supported witnesses (26%) were referred by their supporter for counselling after the trial was over. At interview, the parent or carer of seven scheme-supported witnesses and one in the comparison group said they had not been offered counselling for their child but they thought it was needed.⁶⁹

In the survey, 54 supporters (79%, across all six schemes) said they had guidance about what to do if a young witness or parent asked about where to seek pretrial therapy;⁷⁰ only 42 (62%) had guidance on appropriate action if families had been discouraged from seeking pretrial therapy.

Frequency and types of contact

Research has shown that young witnesses experience fear and anxiety directly attributable to their lack of understanding of the legal process and their role within it (Saywitz, 1995). Because children's ability to absorb new information is limited, particularly when they are under stress, support sessions need to accommodate the child's concentration span. Time is needed to gain their trust: young people who develop a trusting relationship with at least one 'justice system' person have been shown to experience less trauma than those who do not (Henry, 1997). A single session combined with a familiarisation visit to the court can provide only the most basic information and, for many children, does not constitute adequate preparation (Sas *et al.*, 1991). Structured programmes tend to comprise around four to eight sessions, with one or two additional sessions after the case is over (Sas *et al.*, 1991, Aldridge and Freshwater, 1993; Saywitz, 1996; Muller, 2004). In study cases:

- 95 scheme-supported witnesses (89% of the 107 interviewed) remembered how often they had seen their supporter: answers ranged from one to 11 times, with a mean of four and a mode of one;
- 107 referral forms recorded how often supporters had seen scheme-supported witnesses: answers ranged between one and 16 with a mean of four and a mode of three;
- only 14 of the 37 comparison group witnesses who were interviewed (38%) could recall how often they had seen a supporter.⁷¹ Answers ranged from zero to two, with a mean and mode of one.

⁶⁸ Twenty-nine (26%) were referred by their supporter for counselling or support after the trial was over.

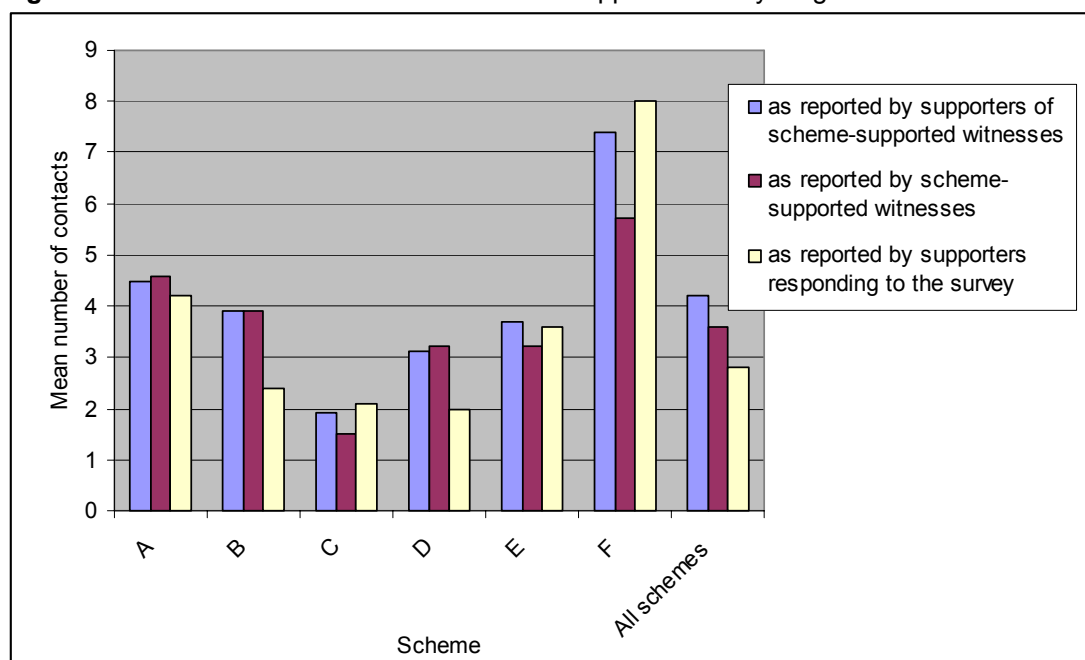
⁶⁹ The study team identified a further seven young witnesses whom they believed to be in need of therapeutic counselling post trial. This was followed up with appropriate organisations.

⁷⁰ Both NSPCC schemes were co-located with a therapeutic service. One offered referrals only after the trial, guilty plea or decision not to proceed. The other had a significant waiting list and most witnesses were not offered a service until the case was over. One of the Area Child Protection Committee schemes had planned to offer a therapeutic service in conjunction with Victim Support but this was not available during the evaluation.

⁷¹ As explained previously, all members of the comparison group had contact with a supporter on the day of trial. Some met a supporter on a pretrial familiarisation visit.

The following chart juxtaposes the number of contacts by scheme as reported by scheme-supported witnesses, their supporters and by supporters responding to the survey in describing their usual practice.

Figure 4.1 Mean number of contacts between supporters and young witnesses



There was a range between schemes from around two to around eight contacts per witness, with scheme F, dealing primarily with victims of sexual assault, reporting the largest average number of contacts. Scheme B, which aimed to offer services to all young witnesses in its area, had contact figures closest to the average for all schemes in the evaluation.

Young witnesses were asked whether they had had enough time with their supporter. Their responses suggest that significantly more scheme supported witnesses (87 or 81% of the 107 interviewed) than comparison group witnesses (only eight or 22% of the 37 interviewed) felt they had enough time with their supporter.

Ninety-four scheme-supported witnesses both remembered the number of times they had seen their supporter and expressed a view about whether the contact was adequate:

Table 4.2 Scheme-supported young witnesses number of contacts with their supporter and views on the adequacy of contact

Did witness feel contact was adequate?	Number of contacts with supporter				Statistically significant difference
	Three or fewer (n=54)		Four or more (n=40)		
	No.	%	No.	%	
Yes	40	74	38	95	*
No	14	26	2	5	

Those who saw their supporter four or more times were significantly more likely to report that

contact was adequate than those who saw their supporter less often.

As described in chapter 3, with few exceptions a supporter was not assigned to work with the child until after a not guilty plea was entered. This was often many months after the investigative interview. Some parents wish to avoid heightening their child's anxieties and so do not want preparation for court to begin until it is known that the case is likely to go to trial. Parents and carers were therefore asked about the appropriateness of the timing of support.

Table 4.3 Parents' and carers' views of the timing of support

View	Scheme-supported group (n=103)		Comparison group (n=29)		Statistically significant difference
	No.	%	No.	%	
Support was provided at about the right time	84	82	11	38	
Provision of support was too late	18	17	16	55	*
Provision of support was too early	1	1	2	7	

Those in the scheme-supported group were significantly more likely to conclude that support had been provided at about the right time and were less likely to feel the timing was too late.

Familiarisation visit to the court before trial

The National Standards (Home Office *et al.*, appendix J) expect the supporter to arrange a pretrial familiarisation visit to the court and ensure that the young witness and parent or carer see the Special Measures ordered by the court. The Standard suggests this should be done in liaison with the Witness Service. Thirty-nine scheme-supported witnesses (42% of those who had a visit) recalled a member of the court-based Witness Service being present on their court tour, compared with 11 (92%) of those in the comparison group.⁷² Court practice varied as to whether the Witness Service was permitted to turn on and demonstrate TV link equipment. Familiarisation visits were conducted for most scheme-supported witnesses:

- Significantly more scheme-supported witnesses (93 out of 110 or 85%) had a least one visit to court before the day of trial than comparison group witnesses (12 out of 41 or 29%). Scheme supporters transported 38 of their witnesses (41% of the 93 who went on a visit);
- 62 (67% of the 93) scheme-supported witnesses who had a visit recalled that their supporter was present at the visit (referral forms indicated that the supporter was present at 78 or 84% of the 93 visits);
- some young witnesses find it hard to absorb all the information on one visit, or may be particularly nervous of the court environment. It is important that supporters consider whether additional court visits would assist the child. Twelve scheme-supported witnesses (11% of the 110 scheme-supported witnesses, supported by schemes B, C, D, E and F) had two or more pretrial familiarisation visits. In the survey, however, 32 supporters (47% of the 68 who responded) indicated they never accompanied a young person on more than one pretrial visit;

⁷² It was not possible to tell in how many instances visits for scheme-supported witnesses were arranged by the Witness Service directly, but this was not routine practice in some scheme areas.

- a supporter who attends the court visit is better able to gauge the witness's reaction to the court and views about Special Measures, having heard the witness's questions and seen their response to (and understanding of) the courtroom and TV link. The National Standards (Home Office *et al.*, 2002) are predicated on an assumption of continuity of support.⁷³ Five supporters surveyed (7% of the 68 responding, from schemes C and D) never accompanied a young witness on a pretrial visit;
- 17 scheme-supported witnesses had no visit: seven said they were not offered one and seven declined or were unable to go (three did not provide a reason).

Of the 29 comparison group witnesses who did not visit the court pretrial, only four had been offered a visit. One had accepted the offer made at the police station but no-one followed up. Nearly all of those who did not have a pretrial visit to the court (11 out of 12 scheme-supported witnesses and 18 out of 22 comparison group witnesses) were shown a courtroom or TV link room on the day of trial. This is likely to require witnesses to attend court earlier than necessary and therefore prolong waiting time before giving evidence.

The following table shows the timing of the (first) pre-trial visit for the 105 witnesses (93 scheme-supported and 12 in the comparison group) who had such a visit.

Table 4.4 Timing of first pretrial court familiarisation visits

Time prior to trial	Witnesses visiting at this time (n=105)	
	Number	%
From one to seven days before	57	54
One to four weeks	34	32
Over a month	10	10
Could not recall	4	4

Over half the visits were in the week before the trial. Fifteen witnesses (15% of the 101 witnesses who could recall the timing of their familiarisation visit) would have preferred an earlier visit; all of these visited court in the week before the trial. Some of the longer time intervals between the visit and trial are accounted for by trial dates that were adjourned at the last minute, after the visit had taken place.

During their visit to the court:

- over 90 per cent of witnesses in both groups saw the TV link room but far fewer saw the TV link in operation:⁷⁴ 49 scheme-supported witnesses (53%) had done so, whereas none of the 12 comparison group witnesses who had pretrial visits had this opportunity;
- over 80 per cent of witnesses in both groups saw a courtroom during their visit;
- about a quarter, 25 out of 105 witnesses in all, had been shown screens to separate the witness and defendant in court.

⁷³ Continuity wherever possible is also the policy of Victim Support National Office in respect of the Witness Service.

⁷⁴ Court staff advised that in some courts it is not routine for young witnesses to be permitted to practise on the TV link at their familiarisation visit. Murray (1995) stressed the importance of allowing children to practise on the equipment before the trial.

Witnesses were asked about what impact their visit to court had had on them. Percentages in the following table are of those who had at least one visit. Respondents could identify more than one effect that their visit had on them and, therefore, the responses do not sum to 100%.

Table 4.5 Young witness views of the court familiarisation visit

View	Witnesses expressing this view (n=105)	
	No.	%
Visit made witness feel more confident about giving evidence	54	51
Visit made witness feel more worried about giving evidence	11	10
Visit helped witness know what to expect at trial	77	73

About half of witnesses in both scheme-supported and comparison groups said that the familiarisation visit made them feel more confident about attending court. Scheme-supported witnesses were more likely to conclude that the visit helped them know what to expect at trial although the difference was not statistically significant.

Home visits

Home visits are not addressed in the National Standards. They were, however, an integral part of preparation for court for almost all scheme-supported witnesses.⁷⁵ Most schemes considered that work with children was best undertaken in an environment where they were comfortable (borne out by young witness comments in interview) and better able to take on board new information. Home visits were also needed to supplement the basic information covered on the court familiarisation visit. In study cases:

- the supporter made at least one home visit to 100 (91%) of the 110 scheme-supported witnesses;
- four schemes (A, B, E and F) said their supporter always made a home visit. The other two schemes reported that this happened for most witnesses;⁷⁶
- In the survey, 53 supporters (78%) said they visited all young witnesses at home; seven (10%) said they visited half or more at home; and six (9%) said they visited none or less than half of young witnesses at home;⁷⁷
- 26 supporters surveyed (38%) conducted pretrial preparation at court as an alternative to a home visit; six of these (9%) said they did this with all young witnesses.

Explaining to young witnesses about the court and their role

Children's fear of the court process appears to be exacerbated by their lack of knowledge and misconceptions (Keeney *et al.*, 1992, Sas, 1992, Westcott and Davies, 1993; Murray, 1995).

⁷⁵ All six schemes had written guidance for supporters about their own safety, and four had policies on risk assessment for home visits, primarily based on information from the police officer in the case and the organisation's own records.

⁷⁶ All schemes had guidance for supporters on their personal safety.

⁷⁷ All supporters surveyed in three schemes (A, B and F) reported always conducting a home visit.

Adequate education not only lessens stress but also serves to enhance their ability to give best evidence (Sas *et al.*, 1992; Snyder *et al.*, 1993; Mellor and Dent, 1994; Lipovsky, 1994). Key tasks for the supporter identified by the National Standards (Home Office *et al.*, appendix J) include helping young witnesses to understand the court process and their role in it (including the roles of the participants in the case, the importance of telling the truth and the nature of cross-examination) and preparing the young person for the outcome of the trial.

Explanations about giving evidence contained in the Young Witness Pack⁷⁸ have been endorsed by the judiciary and criminal justice organisations. Use of the Pack ensures these messages are given in a consistent and acceptable way. The National Standards expect the supporter to give the young person and parent or carer Young Witness Pack materials and, if appropriate, show them the young witness video or DVD.⁷⁹ The Code of Practice for Victims of Crime (Office for Criminal Justice Reform, 2005) requires Witness Care Units to provide victims under 17 with Young Witness Pack materials. Young people in the study were asked which of these materials their supporter had used:

Table 4.6 Young witnesses' account of materials used by their supporter⁸⁰

	Scheme-supported witnesses (n=110)		Comparison group witnesses (n=41)		Statistically significant difference
	No.	%	No.	%	
Saw 'Giving Evidence – what's it really like'	63	57	1	2	*
Saw booklets from the Young Witness Pack	95	86	8	20	*
Saw a 'virtual' tour of a courtroom on the Internet	1	1	0	0	

Scheme-supported witnesses were more likely to have seen print and visual young witness materials than those in the comparison group.⁸¹

Four supporters surveyed (6%, from schemes C and D) used Pack booklets with less than half the young witnesses they worked with and never used the video or DVD 'Giving evidence: What's it really like?'.⁸² Some witnesses were shown booklets, but not given copies. A few received the leaflets (some through the post) but the contents were not explained. Most comments from young witnesses about the materials were positive.

Young witnesses were asked what supporters had told them about being a witness. All the differences between the groups were statistically significant.

⁷⁸ Towards the end of the study, the Office for Criminal Justice Reform (now responsible for Pack distribution) began updating the materials. All young witness comments about the Pack were passed on to those responsible for the update.

⁷⁹ Three also saw the Barnardos video for younger children 'So you're going to be a witness'.

⁸⁰ Some had seen more than one of the listed materials.

⁸¹ In addition to the items in the table, some schemes and supporters had put together their own materials including model courtrooms; puppets and dolls; a wig and gown for role play; quizzes and card games; topic cards (who, what, where, talking and feeling cards); and court storyboards and games.

⁸² Some supporters said they did not use it because it was not available in DVD format. This format is, in fact, available.

Table 4.7 Young witnesses' account of what supporters told them

Topic	Scheme-supported witnesses who said this was discussed (n=110)		Comparison group witnesses who said this was discussed (n=41)		Statistically significant difference
	No.	%	No.	%	
What court looked like	88	80	7	17	*
The jobs of people at court	81	74	10	24	*
They could tell the court if they needed a break	96	87	14	34	*
They could tell the court if they felt upset	90	82	13	32	*
The number of people who would be at court	79	72	7	17	*
There might be delay before the day of trial	66	60	5	12	*
There might be delay on the day of trial	90	82	7	17	*

The table lists key messages for young witnesses about what to expect at court as identified in 'Preparing young witnesses for court' (NSPCC Young Witness Pack, 1998). Scheme-supported witnesses were much more likely to have been advised both about practical matters (such as the number of people at court, their roles and the possibility of delay) and to have been given key advice such as knowing they could ask for a break. Differences between the scheme-supported and comparison group were statistically significant.

As noted in the table above, most scheme supporters explained 'who's who' at court. However, there is also a responsibility for those who introduce themselves to the young person at court to explain their role clearly (supporters can also facilitate this). Of the 145 young witnesses who attended court, 112 (77%) had met the prosecution advocate; 12 (8%) had met the defence advocate; and 13 (9%) had been introduced to the judge or magistrates.⁸³ Some may not have checked to ensure the young person understood their role: 19 young people recalled being introduced to someone but did not know who this was. It is therefore not surprising that the proportion of young witnesses who reported meeting the prosecutor, defence advocate or a member of the judiciary was smaller than indicated by referral forms. For example, only five young witnesses said they had met the judge or

⁸³ It is the advocate's responsibility especially when the witness is nervous or vulnerable, to ensure that they are put as much at ease as possible, para 6.1.4, 'Written Standards for the conduct of Professional Work' General Council of the Bar, undated; Standard 22, Criminal Justice System 2005; para 4.17, CPS, 2005.

magistrates. No witness reported having a pretrial meeting with the prosecutor.⁸⁴ Ways of following up on such issues is dealt with in the section on 'Requesting and providing feedback' in chapter 5.

Rules for answering questions

Only 51 scheme-supported witnesses (46%) and nine in the comparison group (22%) said supporters gave advice about rules for answering questions. However, more recalled that specific points about questioning (such as telling the truth) were mentioned.

Table 4.8 Young witnesses' account of supporters' advice about questioning

Advice	Scheme-supported witnesses who said this was given (n=110)		Comparison group witnesses who said this was given (n=41)		Statistically significant difference
	No.	%	No.	%	
About telling the truth	98	89	17	41	*
That a lawyer might say they were not telling the truth	87	79	7	17	*
That they could tell the court if they could not understand a question	98	89	18	44	*

Scheme-supported witnesses were significantly more likely than those in the comparison group to recall all three kinds of advice.

The supporters' handbook encourages the child's 'active participation' in preparation activities (NSPCC Young Witness Pack, 1998). This is crucial in respect of young people's understanding rules for answering questions at court. Cross-examination (when their honesty is often questioned) runs counter to conversational rules as well as rules in school (where there are 'right' and 'wrong' answers and it may be acceptable to guess). The handbook emphasises that young witnesses need help and practice to listen carefully to questions and apply the rules for answering questions at court. It also explains that children can be taught a technique to improve their recall that does not distort their memory or make them more suggestible (Saywitz, 1995, 1996). These techniques must be used without any reference to the child's evidence. The Court of Appeal has stated that none of the material in witness preparation programmes should be similar to issues in the case or 'play on or trigger' the witness's recollection of case-related events (*R v Momodou* [2005] EWCA Crim 177). In study cases:

- supporters of 103 scheme-supported witnesses recalled whether they had played 'question and answer' games with the witness. Forty-seven (46% of the 103) had done so. None did so in scheme C and few did so in schemes B or D;
- 29 scheme-supported witnesses (26%) remembered playing such games with the supporter, as did one comparison group witness.

⁸⁴ Practice guidance on 'Early Special Measures Meetings' states that witnesses for whom the CPS intends to make a Special Measures application may request a pretrial meeting with the prosecutor; a witness for whom the CPS has decided not to apply for Special Measures may also request a meeting, para 45, Home Office Communication Directorate 2002. In future, prosecutors may speak to young witnesses pretrial about evidential matters, Attorney General 2004.

The survey of supporters confirmed that the use of role play differed across the schemes:

- supporters for two schemes (E and F) used 'question and answer' role play with more than half the young witnesses they supported;
- 21 supporters across the other four schemes (31%) never employed such techniques and a further 12 (18%) did so with less than half the witnesses they supported.

Scheme F has developed written 'Q & A' scripts for the purpose of transparency. These included questions for children which tested their ability to respond to ambiguous or confusing propositions but did not touch on the evidence, for instance: "Can I suggest that when you last visited McDonalds you ate three chocolate muffins?"; "Last week, did you help your mother/ father/ carer wash the dishes on Monday and on Wednesday?"; and "Do you wash the dishes with chocolate sauce or do you use furniture polish?". The supporter used 'topic cards' as a follow-up to the questioning exercises. Examples include 'Last birthday'; 'Your favourite TV programme'; and 'A place you have been'. The young witness picks a card and then chooses a topic to talk about. Once the young witness has told the supporter about it, and then expanded on the details using 'who', 'what', 'where', 'talking' and 'feeling' prompt cards, the supporter asks the witness questions about what was said. She records the topic the young person talked about in her case files.

Scheme-supported witnesses gave examples of how supporters explained the rules for answering questions:

"J asked me what I had for breakfast and I said 'toast'. Then she said 'so you had cereal for breakfast then?' I said 'no, I had toast'." (boy, 10)

The following table analyses the problems with questions spontaneously identified by young witnesses (totals in each category therefore reflect only those who mentioned a problem, but not necessarily the total experiencing it).⁸⁵ Both groups reported similar levels of difficulty with the content and style of questioning. This suggests that, in the five criminal justice areas included in the study, preparation for court, however effective in equipping young witnesses with an understanding of the court process, was not enough by itself to address all the factors that might influence children's ability to give their best evidence.

⁸⁵ In study interviews, young witnesses were invited to respond to open-ended statements, including 'When they asked me questions I felt...'; and 'I thought the questions were ...'. Not every child commented on every such statement. Interviewers were warned not to prompt for specific answers: they coded common responses on a tick-off sheet and noted others.

Table 4.9 Problems with questioning reported by young witnesses

Young witnesses said:	Scheme-supported witnesses (n=82)		Comparison group witnesses (n=24)		Total (n=106)	
	No.	%	No.	%	No.	%
They didn't understand some questions	39	48	12	50	51	48
Questions were too fast	14	17	2	8	16	15
Questions were too long/ complicated	29	35	10	42	39	37
Questions were repetitive	30	37	4	17	34	32
Questions jumped around in time	24	29	5	21	29	27
Questions placed unrealistic demands on memory	28	34	6	25	34	32
They were asked to demonstrate intimate touching on their own body	2	2	0	0	2	2
The other side's lawyer talked over their answers	18	22	6	25	24	23
The other side's lawyer tried to make them say something they didn't mean	39	48	10	42	49	46
The other side's lawyer was sarcastic, rude or aggressive	37	45	9	38	46	43
The other side's lawyer said the witness was lying	47	57	18	75	65	61

In all, 64 of the scheme-supported witnesses who gave evidence (78%) and 21 in the comparison group (88%) reported a problem of some kind with questioning.⁸⁶ Forty-four scheme-supported witnesses (54% of the 82) and 10 (42% of the 24) in the comparison group had felt able to tell the court if they had a problem with a question. The differences between the groups in these respects were not statistically significant.

On the form referring young witnesses to the evaluation for interview, supporters were asked to comment on how well the witness's needs were accommodated during the trial, including questioning. There were 89 responses⁸⁷ of which 49 (55%) indicated that, in the view of supporters, the witness's needs had been accommodated, often in response to information about witness needs passed on by the scheme. Among those who felt that needs were not

⁸⁶ A Home Office survey indicated that 46% of young witnesses said some questions were unclear or not straightforward: B. Hamlyn *et al.*, 2005.

⁸⁷ It is not known how many supporters saw the witness they supported give evidence.

accommodated, 15 (17% of the 89 who responded) described questioning as ‘confusing’, ‘hard to understand’, ‘harsh’, ‘inappropriate’, ‘intimidatory’ or ‘bullying’.⁸⁸

Several young witnesses commented on leading questions, for example:

“They try to get you to say things that aren’t true”. (boy, 8, scheme-supported)

“He tried to trip me up to say things I didn’t want to”. (boy, 12, scheme-supported)

Other comments concerning cross-examination related to the pace of questioning, its tone and repetition:

“When I tried to say something, he talked over me. They didn’t give me the chance to tell”. (girl, 15, scheme-supported)

“I would say something, then he would say ‘So, you’re saying...’ and then say things that I wasn’t saying. He was sarcastic”. (girl, 12, scheme-supported)

“I did feel a bit badgered. There was a lot of repeat questions”. (girl, 14, scheme-supported)

Some comments about cross-examination from comparison group witnesses reflected a lack of preparation for the experience, for example:

“I had no idea what to expect. I felt as though I was on trial”. (girl, 15)

“I was nervous and confused. I thought ‘What have I got to do? What have I got to say?’”. (boy, 14)

As previously noted, the experiences reported by young witnesses suggest that preparation for court was not enough by itself to address all of the factors that might hinder young witnesses ability to give their best evidence, including questioning at court that fails to take account of witness needs and communication abilities. Policy and guidance encourage intervention by the judiciary and the prosecution if the questioning of young witnesses is inappropriate.⁸⁹ In this study, the number of interventions recalled by both groups of young witnesses was much lower than the rate of reported communication problems. Ten witnesses (9%) reported that the judge or magistrates asked the advocate to simplify language, eight (8%) that the lawyer was asked to slow down, and three (3%) that the lawyer was asked to stop using an aggressive tone. Eleven witnesses (10%) said the prosecutor intervened when there was a problem with the defence advocate’s questions.

The perspective of judges and lawyers about court familiarisation

Judges and magistrates in interview and survey were asked if they were satisfied with the way young witnesses were familiarised with the court process. Sixty-four (84% of 76) were satisfied and eight (11%) were not. (Judicial views expressed in interview are explored in the following chapter.) The same question was put to barristers and solicitors: 27 (75% of the 36 surveyed) were satisfied and eight (22%) were not. The concerns of those who were dissatisfied related to young witness schemes and the Witness Service.

⁸⁸ These perspectives may not provide an accurate reflection of process.

⁸⁹ ‘Judicial vigilance is always necessary’ to guard against ‘over-rigorous cross-examination’ and ensure that advocates ‘use language that is free of jargon and appropriate to the age of the child’, that questions are ‘unambiguous’, and that the child is ‘given full opportunity to answer’, para. 4.4.3, Judicial Studies Board 2004; the lawyer should object if cross-examination is unreasonable, unfair, offensive or oppressive; Standard 29, Criminal Justice System 2005; pp 16-17, CPS 2006; para 4.24, CPS 2005.

Checking the witness's concerns

The child witness supporters' handbook explains that supporters who explore the child's questions, anxieties and (mis)understandings of the court process are better able to tailor pretrial preparation to the needs of the child (NSPCC Young Witness Pack, 1998). The handbook goes on to point out that this also elicits information, such as the child's preference about how to give evidence, to be passed on to others in the criminal process. In interview, young witnesses recalled the questions they had been asked by a supporter (they could indicate if they had been asked any or all of the questions in the table below).

Table 4.10 Questions supporters asked young witnesses

Question	Scheme-supported witnesses asked this (n=110)		Comparison group witnesses asked this (n=41)		Statistically significant difference
	No.	%	No.	%	
What worried the witness	85	77	4	10	*
Witness's choice of Special Measures at court (TV link, screens, removal of wigs etc)	84	76	5	12	*
Who the witness wanted with them when they gave evidence	57	52	3	7	*
If the witness had any questions	96	87	11	27	*

Those in the scheme-supported group were much more likely than the comparison group to report having been asked about their worries, questions and preferences. All differences were statistically significant.

Refreshing the witness's recollection

'Achieving Best Evidence' states that all witnesses are entitled to see their statement before the trial and this is the responsibility of the police to arrange (paras 4.33, 4.36, Home Office *et al.*, 2002). Of the 151 young witnesses in the study, 100 (66%) had made a video interview as evidence-in-chief⁹⁰ and 44 (29%) had given a written statement (the manner of interview for the other seven was unknown). No videotaped interview was made for 18 young witnesses (19%) of the 96 witnesses who gave evidence in offences of sex or violence, although there is a presumption in 'Achieving Best Evidence' (Home Office *et al.*, 2002) that this will be done.

While it was not the supporter's responsibility to show young witnesses their videotaped or written statement for the purpose of refreshing, all but three (96%) of the 68 supporters surveyed routinely advised young witnesses and their parents or carers that the witness was entitled to refresh his or her memory of the statement prior to the trial. Three schemes (A, B and E) reported taking an active role in prompting police officers to arrange this. Officers in scheme A's area confirmed that refreshing would not be done systematically without reminders from the scheme.

Witnesses were asked whether they had had an opportunity to refresh their memory before

⁹⁰ Burton *et al* (2006) found that videotaped interviews were conducted with little more than a quarter of young witnesses, despite the presumption in favour of such interviews.

the trial. Analysis of study cases did not reveal any difference in practice in relation to scheme-supported and comparison group witnesses:

- 84 (84%) of those who made a video statement were allowed to see it before trial (69 out of 82 scheme-supported witnesses and 15 out of 18 in the comparison group);
- 41 (93%) of those who made a written statement had been allowed to read it (21 out of 24 scheme-supported witnesses and all of the 20 in the comparison group). Some had great difficulty reading police handwritten statements.

Young witnesses were asked about refreshing their memory of their statement:

- of the 41 who refreshed their memory from a written statement, 36 (88%) found it helpful, as did 50 (60%) of the 84 who saw their video interview before the trial;
- four did not see their video before the day of trial and did not give evidence;
- 12 saw their video interview for the first time when they gave evidence.⁹¹ Of these, six (50%) said they had problems concentrating on it and five (42%) had problems remembering what was in the video when they were asked questions about it.

Support and waiting times on the day of trial

National Standards for Young Witness Preparation identify liaison with the Witness Service coordinator or court liaison officer as a key task for the supporter 'to ensure that waiting time at court is kept to a minimum' (Home Office *et al.*, 2002, Appendix J). One hundred and seven scheme-supported witnesses (97%) and 38 in the comparison group (93%) attended court on the day scheduled for trial; in all, 111 gave evidence. Fifteen young people (10% of those who attended court) attended more than once. This was due to evidence not being completed on the first day (three witnesses); scheduling problems (eight witnesses); and attending court to give evidence more than once (seven witnesses – five gave evidence again at a retrial and two did so at an appeal). Some witnesses experienced more than one of these problems.

Information about waiting times at court was available for 136 witnesses. The average wait was just over three hours, with the longest being over 16 hours for a witness who attended over three days.⁹² Only 46 (41%) of the 111 young people who gave evidence started their evidence-in-chief on the morning of the first day they attended court.⁹³ Even where young witnesses were listed to attend on the morning of the second day of trial, it was common for listing officers to put other matters before the judge first, which often delayed the young witness's evidence. Only six young witnesses (4% of the 145 who attended court) waited on standby away from the court building.⁹⁴ Scheme-supported witnesses were less likely to report seeing the defendant, possibly because their supporters were better able to keep them segregated. Nevertheless, a significant minority of young people in both groups reported seeing the defendant in or around the court building: 31 out of 103 scheme-supported witnesses who waited at court (30%) and 16 of the 36 comparison group witnesses (44%). Thirty-five of the 36 barristers and solicitors surveyed (97%) were content for young witnesses to wait on standby away from the court building.

The National Standards (Home Office *et al.*, 2002 appendices F and J) are predicated on the

⁹¹ Burton *et al* (2006) found that most young witnesses saw their video interview for the first time at trial.

⁹² Standard 24, Witness Charter consultation states that witnesses should not have to wait more than two hours, Criminal Justice System 2005. National Standards for Young Witness Preparation expect the supporter to co-ordinate arrangements to ensure that waiting time at court is kept to a minimum, Home Office *et al.* 2002, appendix J.

⁹³ Standard 14, Witness Charter consultation states that young witnesses should attend court on the morning of the second day to reduce waiting time and to allow them to testify when they are fresh, Criminal Justice System 2005.

⁹⁴ Courts should have 'a range of standby arrangements': p 11, Her Majesty's Courts Service 2005; Standard 23, Witness Charter consultation, Criminal Justice System, 2005.

assumption of continuity of support before court and at trial (and, by implication, at any appeal or re-trial⁹⁵). The Standards state that 'willingness and ability to offer continuity of support throughout the trial' are key characteristics of the role of young witness supporter. 'Preparing young witnesses for court' states that young witnesses are likely to derive emotional support from the presence at court of a supporter with whom they already have a relationship of trust (NSPCC Young Witness Pack, 1998). Continuity of support throughout pretrial preparation and trial wherever possible is also the policy of Victim Support National Office in respect of the Witness Service. Scheme policy and practice differed on whether supporters attended court with the witness.⁹⁶

- Four schemes expected supporters to attend court; the fifth (scheme D) said that supporters attended only when specifically requested to do so. The sixth (scheme A), which recruited its supporters from local authority children's services, reported that it did not expect them to attend trial because this would leave it 'struggling for supporter resources'.
- Of the 68 supporters surveyed, 31 (46%, from schemes B, C, D, E and F) accompanied all witnesses at the court building on the day of trial.⁹⁷ Twenty-six supporters (38%) reported never attending court with a witness or doing so for less than half of their witnesses (half came from scheme A and the other half came from schemes C and D).

Witness responses sometimes made it difficult to determine whether the supporter who had prepared the child for court had been present on the day of trial. However, sometimes it was clear that they did not attend. One witness was adamant that she would have preferred her supporter to have been at court with her; another was unnerved by the supporter's absence. A third was confused when she arrived at court expecting to be supported by the person who had come to visit her, only to find that it was going to be someone else. The lack of continuity shook her limited confidence. Comments from young witnesses who were not accompanied by their supporter at court included the following:

"The home visit is a good idea but I think that you should keep the same person through it all."
(girl, 14, scheme-supported)

"I would have liked my supporter to have come to speak to me before I went [to give evidence]."
(girl, 14, scheme-supported)

In the schemes where supporters were not expected to attend the trial, support of the young witness was handed over to the court-based Witness Service. Where scheme supporters accompanied the young person at court, the involvement of the court-based Witness Service differed across the fieldwork Crown Court centres. In most areas, the Witness Service played a complementary role, such as 'meeting and greeting' the witness and supporter, arranging refreshments, obtaining case updates, helping with the support of parents and carers and providing expense forms. At one Crown Court, however, the Witness Service said it had no role with scheme-supported witnesses and little involvement with other young witnesses not supported by the specialist scheme.

Support to the young witness while giving evidence

'Achieving Best Evidence' lists the objectives of the supporter's presence as providing emotional support, reducing anxiety and contributing to the witness's ability to give best evidence (para 5.85, Home Office, 2001). Standards for the Court Witness Supporter in the CCTV Link Room (Home Office *et al.*, 2002, appendix F) state that the person accompanying

⁹⁵ CPS Policy Division confirmed this position, email to authors 4 May 2006.

⁹⁶ Continuity is particularly difficult where the original trial date is adjourned or the child does not give evidence as planned.

⁹⁷ The same number said they would accompany the witness even if the trial transferred outside their usual area.

the witness in the TV link room should be “someone with whom the witness has a relationship of trust. Ideally, this should be the person preparing the witness for court, but others may be appropriate”. There is evidence from experimental and observational research that potential benefits to recall and stress reduction flow from the presence of a known and trusted supporter (Moston, 1992; Batterman-Faunce and Goodman, 1993) and that reduction in stress enhances the quality of children’s testimony (Hill and Hill, 1987; Davies and Noon 1990; Flin *et al.*, 1990; Cashmore, 1992;.Murray, 1995).

The Lord Chief Justice’s 2002 Practice Direction permits ‘an increased degree of flexibility’ as to who can act as a supporter in the TV link room provided the supporter is ‘completely independent of the witness and his or her family and has no previous knowledge of or personal involvement in the case’ but need not be an usher or court official. In issuing a direction identifying the supporter, the trial judge will balance ‘all relevant interests’ (a few judges said they were unaware of this Practice Direction).

The evaluation identified little evidence of the ‘increased degree of flexibility’. The ten Crown Court centres in the study described receipt of a TV link application requesting a named supporter (i.e. someone out of the norm for that court) as ‘very rare’. Five of the six young witness support schemes said that the local CPS was not usually willing to make an application for the scheme supporter to go into the TV link room, if this was the wish of the child. Several police and CPS focus groups acknowledged that CPS lawyers had, in effect, given up making applications for anyone else to accompany the child in the TV link room because of perceived judicial preference for the local norm. One senior prosecutor said that local CPS practice would not change without an assurance of receptivity from the judiciary. In interview, most judges said that it was not their intention to discourage applications on a case-by-case basis.

The following table shows who accompanied the 84 scheme-supported and 27 comparison group witnesses who gave evidence in study cases (some were accompanied by more than one person and therefore responses do not sum to 100%).

Table 4.11 Who accompanied young witnesses while they gave evidence?

Role	Scheme-supported witnesses (n=84)				Comparison group witnesses (n=27)			
	In court (including behind screen)		By TV link (including remote link)		In court (including behind screen)		By TV link (including remote link)	
	No.	%	No.	%	No.	%	No.	%
Court usher	-	-	40	48	-	-	7	26
Court-based Witness Service	7	8	28	33	14	52	13	48
Young witness scheme supporter	3	4	7	8	-	-	-	-
Relative	3	4	3	4	-	-	4	15
Witness did not know role of person accompanying	-	-	2	2	-	-	2	7

Overall, only 12 per cent of scheme-supported witnesses were accompanied by their supporter: Young people who gave evidence in both the scheme-supported and comparison groups were asked if they were accompanied by a person of their choice.

Table 4.12 Was the accompanying person who the young witnesses wanted?

	Crown Court (n=56)		Magistrates' and youth courts (n=55)		Statistically significant difference (ignoring 'no answers')
	No.	%	No.	%	
Yes	9	16	17	31	
No	23	41	11	20	
No strong feelings	20	36	21	38	*
No answer	4	7	6	11	

While 90 per cent of all young witnesses in the study who gave evidence did so the way they wanted (nearly all by TV link) most were not accompanied by the person of their choice. Where this did happen, it was more likely to occur in the magistrates' or youth court. The comment of one 12 year-old was typical: she said she only felt confident "because [the supporter] was sitting next to me".

Of the 34 witnesses not accompanied by the person they wanted, 20 (59%) would have preferred to have had a relative with them and 12 (35%) would have preferred their young witness scheme supporter. Some of the 34 were young: four were between five and eight years of age, three were aged 10 and three were aged 11.

"I would rather have had my mum or one of my brothers. The usher was very nice but I did not know her". (boy, 11, scheme-supported)

The wish to be accompanied by a familiar face was not confined to younger witnesses:

"I wanted to be accompanied by a woman, and I would have preferred the supporter from the child witness scheme". (girl, 16, scheme-supported)

"I wanted my supporter to be with me because she knew me. I had told her that I wanted her there. I didn't like the thought of some random stranger, who didn't know me, being there. I definitely feel that I would have been able to give my evidence better with someone there who I knew and trusted". (girl, 16, scheme-supported)

"The usher was pushing me to change my mind about using the TV link. I would have preferred to have had someone with me who I knew". (girl, 15, comparison group)

The survey of supporters revealed that many lacked experience of accompanying young witnesses while they gave evidence: 38 (56%) had not accompanied a witness giving evidence in court and 40 supporters (59%) had not accompanied a witness giving evidence by TV link. The survey also asked whether supporters watched young witnesses give evidence, as this is an opportunity to validate witnesses' experience when debriefing them after court and to inform the supporter's understanding of court procedure and cross-examination. Two supporters (3%) had seen more than 15 young witnesses testify in the previous year; nine (13%) had watched between six and 15 young witnesses; and 21 (31%) had seen five or fewer. However, 34 supporters (50%, from schemes A, B, C and D) had not seen a young witness give evidence in the previous 12 months.

Routine judicial practice on who accompanies young witnesses while giving evidence

The question of who is permitted to accompany a young witness while giving evidence is a matter for judicial discretion.⁹⁸ The table below sets out survey and interview responses from 55 magistrates and district judges in 34 magistrates' courts and from 29 judges at ten Crown Court centres (respondents could indicate that more than one person routinely accompanied a young witness hence columns may sum to more than 100%):

⁹⁸ Judicial preference varied in respect of other TV link practice. Some judges required the usher or supporter to take the oath in court (after which the person went to the TV link room, with an inevitable slight delay) or in the TV link room, or did not require an oath at all. Judges who had the person take the oath in the TV link room felt that this saved time, and those who did not require an oath at all felt that it saved even more.

Table 4.13 Judicial discretion: who routinely accompanied young witnesses while they gave evidence (scheme-supported and comparison group witnesses)

Who accompanied	Magistrates/ district judges (n=55)				Crown Court judges (n=29)			
	In court		In TV link room		In court		In TV link room	
	No.	%	No.	%	No.	%	No.	%
Court usher	22	40	22	40	12	41	25	86
Court-based Witness Service	26	47	27	49	9	31	8	28
Young witness scheme supporter	10	18	15	27	1	3	2	7
Relative	32	58	1	2	0	0	0	0

The results are broadly in line with the practice indicated in Table 4.11. They indicate differences in practice between levels of court:

- more magistrates and district judges than Crown Court judges reported that young witnesses were accompanied by the Witness Service;
- the majority of magistrates and district judges reported that a relative routinely accompanied a young witness giving evidence in the courtroom whereas no Crown Court judge reported this happening.

Crown Court judges were much more likely to report that a court usher accompanied young witnesses in the TV link room. Of these, 62 per cent (18 out of 29) said that young witnesses were routinely accompanied in the TV link room by the usher alone.⁹⁹

Receptivity to presence of scheme supporters when young witnesses give evidence

The previous section indicated that routine use of young witness scheme supporters to accompany young people giving evidence was low and predominantly confined to the magistrates' or youth court; the majority of supporters surveyed had not accompanied a witness giving evidence at court and half had not seen a witness give evidence in the previous year. It was therefore not surprising that in some areas there was little judicial awareness of young witness scheme supporters. In order to test receptivity, judges and magistrates were asked whether they would have concerns about allowing the person who familiarised young witnesses with the court process to accompany them while giving evidence. Their responses indicated some willingness to allow greater use of young witness scheme supporters while children give evidence:

- 23 out of 29 Crown Court judges (79%) and 47 out of 55 magistrates and district judges (85%) had no concerns about permitting a young witness scheme supporter to accompany a young witness in court;
- 12 out of 29 Crown Court judges (41%) and 48 out of 55 magistrates and district

⁹⁹ In several courts, ushers did not meet young witnesses on familiarisation visits either because of the timing of the visit when ushers were working or because the ushers were sessional workers who were not always available.

judges (87%) had no concerns about permitting a young witness scheme supporter to accompany a young witness in the TV link room.

Interviews with 10 of the judges illustrated the differing attitudes that existed:

“The decision about who accompanies should be about flexibility and giving the young witness a choice, so that the quality of evidence is the best it can be”.

“It would have to be an exceptional case before I would have anyone other than usher in TV link room, and it would have to be clear that the child would not otherwise give evidence at all”.

“I will not allow it in my court”. [the young witness supporter in the TV link room]

“It is always the Witness Service who accompanies here, but I would not have a problem allowing the young witness supporter in the TV link room. Indeed, it’s a friendly face. I like that - strange faces, even in the Witness Service, might put the child off. I can see arguments in favour of continuity of support, provided that the supporter does not know about the circumstances of the case”.

Judicial concerns about the use of young witness supporters apparently were not shared to the same extent by the legal profession: of the 36 barristers and solicitors surveyed, 31 (86%) were content for young witness supporters to escort witnesses in court and 30 (83%) were content with their presence in the TV link room.

Giving evidence by a remote link away from the court building

Some Crown Court centres reported a recent increase use of TV links between different court locations, so that a witness at one court could give evidence to a trial elsewhere in the country. Two young witnesses in one study case gave evidence in this way. A third gave evidence from Egypt by TV link and a fourth (a 15 year old in the comparison group) gave evidence at a magistrates’ court from a remote link in a cabin in the grounds, so that she did not enter the court building. This witness described this as “brilliant” and said she felt “totally comfortable”.

Giving evidence by remote link from a court at a different location overcomes problems of witness intimidation or confrontation with the defendant at court but waiting facilities for young witnesses at the ‘host’ court may still be unsatisfactory. The study therefore explored the views of the judiciary and criminal justice practitioners about locating a remote TV link on support scheme premises (one of the study criteria used as a basis for judging good practice). The Courts Service had installed a remote link at the premises of one study scheme in 2003. This was the subject of an agreed protocol signed by the scheme, CPS and Crown Court. Between April 2005-06, the link was used for 14 witnesses at three magistrates’ and youth court locations; witnesses had also given evidence to a Crown Court in another part of the country. Feedback from witnesses and their parents and carers was described as very positive. However, the nearest Crown Court (about 20-30 minutes away) had declined to use it after the first few cases.¹⁰⁰ Judges described the main problems as logistical, because an usher would need to be sworn in front of the jury and then travel for half an hour to be present while the child gave evidence (practice on swearing in the usher varied: some judges elsewhere had the usher take the oath from the TV link room or dispensed altogether with the usher or supporter taking an oath). They were also concerned that the defence would not want to transfer exhibits to the remote site.

Feedback was sought about the remote link between one Crown Court and its local NSPCC young witness service (not a fieldwork area for this study), which has been in use since

¹⁰⁰ The court granted an application for use of the remote link following completion of this study.

2002.¹⁰¹ Between January and September 2005, this link was used satisfactorily in 24 trials for 64 young witnesses. The resident judge was very satisfied with its use and took the view that young witnesses should not come to the court building. An usher was needed at the remote link site and in court. The court manager said that an average session lasted about five hours at an additional cost per usher of around £35 (this was not resourced on the Crown Court allocation model). The usher took smaller exhibits (such as documents or toys in exhibit bags) to the remote site, about 10 minutes' walk from the court. Larger exhibits were transported by the police. The resident judge considered that any issue with exhibits could be dealt with by advance planning. The court also used new technology to show documents in court to the witness at the remote site.

Criminal justice personnel were asked their view about locating a remote link at the premises of a support organisation: 20 circuit judges (69%); 44 magistrates and district judges (85%); and 20 barristers and solicitors (56%) favoured this possibility. Comments from judges who favoured this option included the following:

"We need a remote link where all young witnesses could go. We should never bring a young witness to court. It would pay dividends in the end as it would lessen pressure on existing TV link rooms and help speed things up (there are delays because not enough TV link rooms are available). There should be a custom-built house for the remote link. I have never seen the police house for video interviews but why could they not be extended for this purpose? It is not a problem whose premises it is. The ideal would be a Victim Support/ Witness Service house shared by the NSPCC. We don't need an usher to be there but there would need to be advance planning for exhibits".

"I have never used a remote link but am in favour. There would need to be a system to communicate with the court if there was a problem, such as the red and yellow card system used by the person with the child in our TV link room to flag up any problem".

"This is to be encouraged warmly".

Some judges who did not favour the use of a remote link did not oppose the concept in principle; some objections related to the use of evidence by TV link generally. Some judges and magistrates (in favour of remote links and against) emphasised the importance of the young witness giving evidence from a remote site taking the proceedings seriously.

Post-trial support

Researchers have emphasised the need for young witnesses to be helped to deal with the aftermath of the court process, answering any questions they may have and addressing misconceptions about what happened (Flin, 1992; Murray, 1995). Key tasks for the supporter identified by the National Standards (Home Office *et al.*, appendix J) include debriefing the young witness and parent or carer and arranging for any follow-up support, including specialist help. Practice varied as to whether debriefs took place:

- only 30 of the 68 supporters surveyed (44%, from all six schemes) said this was invariably their practice and seven (10%, from schemes A, B, C and D) never had such a meeting;
- in study cases, 66 supporters (60%) reported having had a face-to-face debrief;
- in interviews with 103 parents and carers of scheme-supported witnesses, 16 (16%) said their child had insufficient post-trial contact with their supporter, including five

¹⁰¹ For an evaluation of this remote link, see Applegate 2006.

where supporters said they had provided at least one post-trial debrief.

In study cases, 44 supporters (40%) said they informed the witness or the parent or carer about the outcome of the case. Scheme F was sometimes asked by the Witness Care Unit to pass on case outcomes as well as pretrial information. Scheme B noted that, although the supporter 'held the case' until sentencing and would inform the witness in the event of a 'not guilty' verdict, debriefings were sometimes delivered by the police who were better able to offer explanations.

Supporters said that 29 scheme-supported witnesses (26%) were referred on for post-trial support (13 were referred to an NSPCC therapeutic service, six to Victim Support and the rest to an unspecified agency). Parents and carers were asked if they had been offered counselling for their child, including referral to another organisation, since the end of the case. Significantly more of the scheme-supported group (37 or 36% of 103) were said to have been offered counselling than the comparison group (three or 8% of the 39 in the comparison group).

Of those offered counselling, five (14% of the 37) scheme-supported witnesses were receiving it but none of the three in the comparison group. Seven (11%) of the 66 parents or carers of scheme-supported witnesses not offered counselling for their child said counselling was needed; in the comparison group, one of the 36 (3%) parents not offered counselling for their child said it was needed.

Most young witnesses were seen within a few weeks of the trial. Not surprisingly, most young witnesses were relieved that the case was over. Some were angry about an acquittal, felt guilty about the verdict, worried about the defendant coming out of prison or were troubled in other ways. 'Other negative feelings' reported included flashbacks, headaches, sleeping difficulties and feeling nervous. One said: "I still think about it all the time". Six said they were afraid to go out of their home.

When interviewed, young witnesses were asked how they felt now. Witnesses could indicate more than one feeling:

Table 4.14 Young witnesses' feelings at interview¹⁰²

	Scheme-supported witnesses (n=107)		Comparison group witnesses (n=37)	
	No.	%	No.	%
Young witnesses said they:				
Felt better	54	50	11	30
Had put the case behind them	52	49	11	30
Still felt upset	12	11	11	30
Still felt worried	14	13	5	14
Still felt scared	11	10	2	5
Had other negative feelings	27	25	12	32

Scheme-supported witnesses were more likely to report feeling better and having put the case behind them than those in the comparison group; a smaller proportion of scheme-

¹⁰² Young witnesses could indicate more than one feeling.

supported witnesses reported still feeling upset, worried or scared or having other negative feelings.

Supporting parents and carers

(See also chapter 2, 'Whether schemes added value for parents and carers'.) The National Standards list 'involving the young person's parent or carer' as a key task for supporters (Home Office *et al.*, appendix J). The Code of Practice for Victims of Crime states that non-offending parents of a victim under the age of 17 are also entitled to receive services (para 3.5, Office for Criminal Justice Reform, 2005). Support may be additionally important for adults who are witnesses themselves, as was the case for the parents and carers of 46 scheme-supported witnesses (42%) and 10 (24%) in the comparison group.¹⁰³

All six schemes reported providing some degree of pretrial support to parents and carers.¹⁰⁴ The study indicated that provision of this support was uneven, or at least that there was not a shared understanding among supporters about what was meant:

- 63 supporters surveyed (93%) reported always supporting parents and carers before trial;
- 43 (63%) supported the parent or carer on the day of trial.

All but scheme A reported supporting parents and carers during the trial (although as discussed above, attendance at trial was uneven for supporters in schemes C and D). Scheme E highlighted close liaison with the court-based Witness Service to ensure that parents and carers were supported. Scheme F, which had just one young witness supporter, recruited volunteers specifically to support parents and carers. During the introductory phone call and visit to scheme witnesses, the supporter also assessed the support needs of the parent or carer and asked if they wanted a volunteer to contact them pretrial. (Sometimes the volunteer accompanied the supporter on this initial home visit.) In some cases, the volunteer's role simply updated the parent or carer on case progress; in others, emotional support was offered as well. The volunteer was also available to accompany the parent or carer at trial. The use of different people to support the child and parent did not result in any significant difference in how scheme F was rated by parents; this scheme was rated consistently well in respect of support both to parents¹⁰⁵ and their children.

The Young Witness Pack booklet 'Your child is a witness' is for parents and carers. Supporters and parents or carers were asked who had received the booklet (responses may have been affected by recall):

- supporters of scheme-supported witnesses said they had given the booklet to the parent or carer of 100 scheme-supported witnesses (91%)
- out of 101 parents or carers of scheme-supported witnesses who could recall, 21 (21%, from schemes C and D) said they had not received the booklet;
- only 11 (28%) of the 39 parents or carers of comparison group witnesses who were interviewed reported receiving the booklet.

All schemes said they provided parents and carers with post-trial support. Its nature and extent varied (for example, one scheme offered group meetings) but all said they would refer parents and carers on to other organisations if necessary. Only scheme C could say how many such referrals it had made in the previous six months (four).

¹⁰³ Parents and carers of 37 scheme-supported witnesses gave evidence, as did seven in the comparison group.

¹⁰⁴ Two schemes (B and C) also noted referring them on to Victim Support and social services.

¹⁰⁵ For example, in respect of the question 'Was there any other help or information you would have liked?'.

The parent or carer of 14 scheme-supported witnesses and four comparison group witnesses watched their child give evidence. The child witness handbook describes post-trial support as important both in respect of evidence heard in detail for the first time and for those who did not hear the child's evidence and are anxious about its content and the impact of testifying on the child (NSPCC Young Witness Pack, 1998).

Parents and carers were asked about the adequacy of contact with a supporter at various stages in the process:

Table 4.15 Parents' and carers' views of the adequacy of contact with a supporter

		Scheme-supported group		Comparison group		Statistically significant difference
		No.	%	No.	%	
Was there enough pretrial contact with a supporter? (n=102 for scheme-supported group; n=31 for comparison group)	Yes	89	87	10	32	*
	No	13	13	21	68	
Was there enough contact with a supporter on day of trial? (n=100 for scheme-supported group; n=29 for comparison group)	Yes	91	91	18	62	*
	No	9	9	11	38	
Was there enough post-trial contact with a supporter? (n=101 for scheme-supported group; n=26 for comparison group)	Yes	85	84	10	38	*
	No	16	16	16	62	

Parents and carers in the scheme-supported group were significantly more likely than those in the comparison group to report having had enough contact with the supporter pretrial, at trial and post-trial.

Victims of sexual or violent offences may be eligible for criminal injuries compensation.¹⁰⁶ In addition to information provided by the police, supporters may also inform witnesses, parents and carers about this. In the study:

- 67 scheme-supported young witnesses were alleged victims of an offence of sex or violence. Supporters reported offering this advice to 41 (61%) of this group of victims;
- a parent or carer was interviewed for 63 (94%) of the 67 young witnesses in this group: only 36 (57% of those interviewed) reported receiving advice.¹⁰⁷

Parents and carers were asked if there was any other support they would have liked. Significantly more parents and carers in the comparison group (30 or 77% of 39 interviewed) than in the scheme-supported group (45 or 44% of 103 interviewed) said other support could have been provided. The following table shows the numbers wanting specific kinds of additional support (the kind of support was stipulated in the questions).

¹⁰⁶ In certain circumstances, an eyewitness to such an offence may also be eligible.

¹⁰⁷ Victim Support notes that victims of violent crime assisted by its community-based service would have been offered advice about criminal injuries compensation.

Table 4.16 Parents and carers who would have liked more support

Type of additional support wanted	Scheme-supported group (n=103)		Comparison group (n=39)		Statistically significant difference
	No.	%	No.	%	
More face-to-face contacts	7	7	21	54	*
Advice on how to support your child	19	18	15	38	*
More phone calls	13	13	13	33	*
Someone to call if you had questions	12	12	13	33	*
Help with child care on the day of trial	4	4	6	15	
Transport to and from court	4	4	5	13	
Support for other children in family	9	9	5	13	

The table shows that parents and carers in the comparison group were much more likely than those in the scheme-supported group to want additional face-to-face or telephone contact with the supporter and to want more advice on how to support their child: differences between the groups were statistically significant at the five per cent level (statistical significance is omitted from the last three rows because of low sample sizes and expected counts).

Levels of need were higher across all types of support in the comparison group. Nearly half of these parents would have liked more face-to-face contact with a supporter.

Parents and carers were asked if they would have liked any extra support of a kind other than the categories listed in the above table. Fourteen parents or carers in the scheme-supported group (14%) and eight in the comparison group (21%) said they would. Wishes across both groups included earlier pretrial support; advice about supporting children; about the defendant seeing the witness on the TV link; what to do about intimidation; and post-trial support.

Conclusion

Many young witnesses reported experiencing high levels of stress while waiting to go to court. Specialist schemes provided enhanced services which were greatly appreciated. However, key elements of a structured programme of support (for example home visits, engaging young witnesses in 'question and answer' role play on non-evidential matters and advising them about stress reduction strategies) were not offered consistently. Practice in respect of the guidance in the National Standards for Young Witness Preparation varied among schemes. These findings suggest that even greater benefits could be achieved for young witnesses, their parents and carers and the criminal justice process if standards were improved.

5. Governance and administration

Young witness scheme activities include communicating information about young witnesses' needs and wishes to criminal justice agencies; advocacy on behalf of young people in the criminal justice process; coordination of a multi-agency response; and providing feedback to practitioners and policy makers about the experiences of young witnesses. This chapter examines the differences between the six schemes in respect of their relationships with the local criminal justice community, objectives, management structures and performance management (including data analysis, provision of feedback and complaints procedures). The chapter also compares the approach of schemes to recruitment, training, documentation, supervision and support. It draws on profiles completed by schemes for the purposes of the study; interviews with managers, judges and court personnel; the survey of supporters; and discussions with Local Criminal Justice Board subcommittees. Compliance of scheme arrangements with National Standards and other standards is considered in light of Objective 5 of the evaluation to identify good practice.

Partnership in the criminal justice network

Criminal justice areas differed in the extent to which young witness schemes were treated as full 'partners' in local networks. Local Criminal Justice Boards are the key forum for addressing victim and witness concerns. Only two schemes (B and E) were directly represented on a relevant Board subcommittee;¹⁰⁸ for these two schemes, membership had helped raise the profile of young witnesses. These were the only Boards to include young witness concerns in their plans for delivering government victim and witness priorities. In the area served by scheme B, young witness service coordination groups chaired by the scheme manager were subcommittees of the Area Child Protection Committee and also fed into the Local Criminal Justice Board subcommittee of which the scheme manager was a member. Where schemes were not represented, Local Board subcommittees were unable to comment to the evaluation on the effectiveness of young witness scheme management and funding arrangements, or the future provision of such services across the criminal justice area.

Five schemes were party to inter-agency protocols setting out what could be expected of organisations, particularly in respect of young witness referrals to the schemes and passing on information: signatory organisations were the police and CPS (all five schemes), courts (three schemes) and social services (two schemes). The sixth had not yet produced a written protocol as the scheme was new and working arrangements with Witness Care Units were still under development.

Coordinators of five schemes were members of other inter-agency groups as a result of their young witness role. Three were members of court users' groups.¹⁰⁹ Five schemes had delivered inter-agency training to other criminal justice organisations but only one had done so under the auspices of the Local Criminal Justice Board (a process likely to raise the profile and authority of the scheme across other criminal justice organisations).

Young witness support scheme objectives

The National Standards expect that the person undertaking witness preparation must focus 'entirely on the young person's welfare in preparing for the experience of giving evidence' (Home Office *et al.*, 2002, appendix J). Only one scheme had an explicit objective to increase the number of young witnesses willing to attend court. Although others expected that their support would assist young witnesses to attend court, all schemes expressed unease about

¹⁰⁸ While both Victim Support young witness schemes were represented at Board level by the Victim Support area manager, the schemes themselves were not directly represented.

¹⁰⁹ Victim Support national standards (2005) require schemes to work in liaison with other criminal justice agencies in relation to witnesses attending court, for example, the court users' group.

applying criminal justice objectives to their child-centred work because of the potential conflict with individual witness interests.¹¹⁰ Scheme objectives covered helping young witnesses to give their best evidence; reducing their trauma; and communicating with others in the criminal justice system.

Table 5.1 Summary of objectives of support schemes relating to best evidence and the welfare of young witnesses

Scheme	Objectives
A	<ul style="list-style-type: none"> • To reduce the trauma of giving evidence • To improve confidence to give best evidence
B	<ul style="list-style-type: none"> • To offer a service designed to minimise stress and trauma • To enable young witnesses to give a full and clear account of their testimony
C	<ul style="list-style-type: none"> • To prepare a child witness to enable them to give evidence at court
D	<ul style="list-style-type: none"> • To encourage young witnesses to share their fears and apprehensions and thus assist them to give their best evidence
E	<ul style="list-style-type: none"> • To offer a professional, independent and child-focused service • To be sensitive and responsive to the particular needs and anxieties of each child referred • To reduce anxiety • To give young witnesses an understanding of court and what will be expected of them
F	<ul style="list-style-type: none"> • To provide direct support, assistance and information to children • To create an opportunity for the child to feel empowered by giving evidence

National Standards expect that the person undertaking witness preparation be seen to be independent and focusing 'entirely on the young person's welfare' in preparing for the experience of giving evidence (Home Office *et al.*, 2002, Appendix J). While all schemes aimed to assist young witnesses to give best evidence, only some expressed this using child-centred language. Some schemes linked their child-centred agenda to advocacy on behalf of young witnesses. The government describes advocacy as being about speaking up for young people, empowering them to navigate the system and ensure that rights are respected and their views and wishes are made known to decision-makers (Department of Health, 2002). Advocacy is recognised as a legitimate objective for witness support organisations.¹¹¹ The advocacy aspect of support was apparent to varying degrees in objectives of five schemes relating to their inter-agency role:

¹¹⁰ This was discussed by the schemes at a seminar at the outset of this study, when they pointed out that one of the study objectives - increasing successful outcomes to prosecutions - was not an appropriate objective for the schemes themselves.

¹¹¹ Victim Support national standards (2005) include the aim of 'influencing other agencies that work with victims of crime', emphasising the importance of independence which 'gives us the freedom to say and do whatever we think is necessary to benefit victims of crime and witnesses'. Staff at St Mary's Sexual Assault Referral Centre, Manchester, include a new 'child advocate' position to prepare young victims for court. The young witness worker at Glasgow's Domestic Abuse Court said it was very important that her job title was 'child and young persons advocacy worker'.

Table 5.2 Summary of objectives of support schemes relating to their inter-agency role

Scheme	Objectives
A	<ul style="list-style-type: none">• To work in partnership to assist young people• To assess the young person's level of understanding, abilities or requirements and communicate those needs as appropriate
B	<ul style="list-style-type: none">• To support the young person and safeguard their interests in the CJS• To provide a multi-agency, coordinated response
C	<ul style="list-style-type: none">• To work with key agencies within agreed local policy and procedures• To ensure that the support needs of the child are met in partnership with relevant organisations, to ensure an effective service
E	<ul style="list-style-type: none">• To articulate the wishes and feelings of young witnesses to the police, CPS and judiciary and, where appropriate, to advocate for them• To extend professional understanding of the role and impact of the CJS in cases involving young witnesses• To offer an advisory and consultancy role to other professionals working with young witnesses
F	<ul style="list-style-type: none">• To articulate the child's needs and requirements within the court process to alleviate the adverse effects of giving evidence• To provide an advisory/ consultancy role to other professionals working with child witnesses• To provide information regarding experiences of child witnesses that could inform procedural and policy initiatives• To extend professional understanding of the role and impact of the CJS in respect of child abuse

Supporters must be sensitive in exercising their advocacy role. Support schemes and those with whom they interact must be aware of issues where friction may occur between the supporter and criminal justice practitioners (for example, the supporter's advocacy about the child's wishes, indicating the need for a change in special measures applied for).

Judicial knowledge of support schemes and their objectives varied. Some appeared unfamiliar with and could not comment on the local young witness support service, whereas others knew their local scheme and seemed comfortable with its scope and goals. A few judges commended the work undertaken by supporters but expressed some unease about scheme objectivity: at these courts, there appeared to be little common ground between the judiciary and the schemes about how the objectives of supporting children and advocating on their behalf could be discharged in an impartial way (discussed further in the final chapter).

Management of young witness support schemes

A review of literature and research across jurisdictions found that young witness support schemes cannot operate effectively without the cooperation of other criminal justice organisations (Murray, 1997). Initial referral to young witness schemes and 'safety net' procedures to identify those young witnesses previously missed, for example, require the assistance of the police, CPS and courts. Similarly, action in response to schemes' passing on information about young witness wishes and needs requires the cooperation of the CPS and courts.

All six schemes had an inter-agency steering committee or management group including representatives from the CPS, police, social services (though not always from all departments in the area covered by the scheme) and Victim Support/ Witness Service. The terms of reference for one steering group were under review because an external funder had queried whether the group's role should be stronger than to merely 'consult, advise and inform'. Another scheme thought that the effectiveness of the steering group as a forum to address practice issues was weakened as the CPS no longer attended regularly and was therefore not present to discuss and address local problems. Four schemes' committees included court representatives. Area Child Protection Committee schemes included other representatives such as health, education and children's charities; one had members from the Witness Care Unit, youth offending team and a solicitor from the local Law Society.

NSPCC young witness service coordinators were part of the management structure for children's services. In one Area Child Protection Committee scheme, the coordinator was employed and supervised by social services. In the other, the young witness administrator was responsible for day-to-day running of the service; the scheme manager, who was also the manager of the Area Child Protection Committee, had overview and inter-agency responsibility at a strategic level. One Victim Support scheme was coordinated by magistrates' court Witness Service managers, (taking around 20% of their time) supervised by Victim Support; the other was managed on behalf of Victim Support by two part-time coordinators (not part of the Witness Service). These coordinators served different parts of the county and until 2005 had different managers within the local Victim Support structure. Where young witness schemes were accommodated alongside adult services, difficulties had been experienced in raising the profile of the young witness scheme with local criminal justice organisations, ring-fencing funding and providing continuity of support for young witnesses through to court. All these factors had an impact on the services received by young witnesses and demonstrate the need for separate scheme management within a child-centred organisation.

Four coordinators had backup for their role when they were out of the office. Four had administrative support, for example for processing referrals and data collection. Coordinators of five schemes provided support to young witnesses themselves (some only occasionally); the sixth had previously been a young witness supporter.

Essential activities for young witness schemes include data collection, analysis and report production. Information on numbers and types of referrals, the number for whom support is refused, numbers declining support, numbers receiving full support, characteristics of those receiving support, work undertaken, whether supported witnesses attended court on day of trial and case outcomes are all important in monitoring the work of schemes and planning the effective use of their resources. Comprehensive information on costs is needed to inform management of the budget and fundraising efforts. The study revealed gaps in the management information generally available to scheme steering committees and funders. Some schemes had only a basic database or partially manual records. Both Victim Support schemes reported limitations of their systems. One was unable to break down by level of court the number of young witnesses supported or to distinguish witnesses who failed to attend court on the day of trial from those who attended but were not called; the other was unable to give the proportion of those referred who were actually prepared for court or to analyse case outcomes. The NSPCC had a database with information about every child referred to the organisation but this was not used in wider management of its young witness services. Its two schemes in the evaluation had developed their own systems. One had a

computer database developed over 10 years which held a wide range of information; the other was based partially on manual records.

The database developed by one of the Area Child Protection Committee schemes was the longest established and most fully developed. It served the information needs of the Area Child Protection Committees that funded it and the Local Criminal Justice Board subcommittee. It was also an active case management tool pretrial. The data recorded included Special Measures applications made and granted; trial information (including waiting times and the duration of evidence-in-chief and cross examination); and comments and observations of the witness, court personnel or other professionals, parents/ carers, and the supporter. Automatic validation checks were made on data input. Reports produced covered offences; case outcomes; age profile; how witnesses made their initial statement; the method by which they gave their evidence, by court; reasons why they did not testify; and the length of time to disposition from the date of the alleged offence, report to the police or charge.¹¹² The system showed if a child was the subject of care proceedings (important, as these may proceed in parallel with the criminal case), was looked after by the local authority or was the subject of a joint section 47 investigation by police and social services. Information could be analysed separately for witnesses initially referred by the police after charge and the smaller number for whom a supporter was allocated when a not guilty plea was entered. Analysis of referrals showed the source and indicated those initially missed by the police file team. The system also flagged any children reluctant to attend court. (The other Area Child Protection Committee scheme planned to introduce a modified version of the same system.)

Requesting and providing feedback

An important ingredient in improving services to young witnesses is the exchange of information about what works well or is problematic. Such communication is also a key factor in maintaining the confidence of criminal justice agencies in the work of schemes. The evaluation indicated that the greater the familiarity of police, prosecutors and the judiciary with the operations of their local young witness support schemes, the greater the confidence expressed about scheme activities.

Witness surveys for the purpose of measuring witness satisfaction are not directed to witnesses under the age of 17. Nevertheless, the views of young witnesses are crucial to improving the way they are dealt with which, in turn, impacts their ability and willingness to give best evidence. Forms seeking feedback on the quality of support received (but not experience in the court system) were sent or given out to young witnesses and their parents or carers by five schemes. Responses were described as almost invariably very positive. Good practice when requesting feedback included specifying that the supporter must not assist in completion of the form; providing a prepaid envelope for its return; and assigning a form number permitting matching of comments to individual supporters.

Two schemes requested feedback about young witness services from the police, CPS, judiciary, court personnel and others. All schemes said they provided feedback to criminal justice personnel about experience in individual cases. One had a feedback form for referrals from Witness Care Units; this ensured that Units were aware of cases in which the scheme was supporting a witness and the nature of that support. This scheme also used an inter-agency cooperation form to report back to the agency concerned on problems that the scheme had encountered in relation to young witness care. Only one scheme used the Local Criminal Justice Board as a route for sharing such information; it also provided annual reports about the young witness scheme for the local authorities within the criminal justice area.

Most members of the judiciary and court personnel said that they did not receive periodic feedback about what worked well for young witnesses and what was problematic. In surveys

¹¹² The ability to monitor pre-charge time intervals is helpful. In one fieldwork area, the CPS had introduced child abuse charging clinics with a specialist lawyer to reduce delay formerly associated with its response to police advice files.

and interviews, only 20 out of 83 commenting¹¹³ (24%) said they received periodic feedback summarising young witnesses' views. Feedback to those attending police and CPS focus groups was also poor. Nearly all those who did not receive feedback wished to do so. In interview, three judges said they were sure there had been no adverse comments as they relied on the Witness Service to pass them on. However, the Witness Service was not necessarily aware of young witness concerns fed back directly to the young witness scheme. One example where judges were apparently unaware of feedback from young witnesses concerned the TV link room. Several judges said that a supporter was unnecessary when the child gave evidence as the presence of an usher was beneficial to the child, for example:

"Ushers are very experienced and can comfort the child and inform the judge if there is a problem."

"Ushers can settle children better than a supporter or relative."

However, many young witnesses interviewed in this study expressed a different view (see chapter 4).

All six schemes had a written procedure for handling complaints from witnesses, their parents or carers or from criminal justice agencies but only one scheme reported receiving complaints in the previous 12 months. The two complaints received had come from other organisations and were dealt with by the scheme manager.¹¹⁴ Three of the supporters surveyed (4%) said that their work had been criticised by someone in the criminal justice system: in two cases the adverse comments had come from the police and in one from a judge. Thirteen supporters (19%) had been asked to give the court a statement or record of the work undertaken and three (4%) had given evidence about their work as a young witness supporter (though not necessarily as a result of any concern being raised).

Two of the ten judges interviewed referred to incidents of perceived inappropriate behaviour by a supporter. It was evident that, although the incidents were isolated, judicial confidence in their local schemes had been dented and had not been completely regained. The behaviour cited as inappropriate had taken place some time previously; it was beyond the scope of this study to ascertain whether these concerns were evidence based. No improper activity by supporters was identified during the course of this study. The final chapter suggests ways in which judicial concerns might be addressed as and when they arise and, where necessary, how judicial confidence in scheme operations might be improved.

Young witness supporters

The National Standards for Young Witness Preparation list the key characteristics of the supporter as follows (Home Office *et al.*, 2002, appendix J): ability to communicate with young people in age-appropriate language; a caring, mature and supporting attitude to young people and their parents/ carers; ability to deal with difficult feelings and emotions; and willingness and ability to support through the trial and work within a framework of Equal Opportunities and confidentiality. In addition, the National Standards expect that the person undertaking witness preparation be seen to be independent and focusing entirely on the young person's welfare; not to have been involved in the preparation of the case; not to discuss the details of the case or the evidence that the young person has given or is to give; and to have received basic training from local agencies.

The National Standards do not, however, specify what kind of background or training the supporter should have. The background of coordinators and supporters in study schemes was determined by the ethos of the parent organisation. The coordinators of the NSPCC and Area Child Protection Committee schemes had received child protection training. The NSPCC

¹¹³ Seven out of 44 magistrates, six out of 25 circuit judges, and seven out of 14 court staff.

¹¹⁴ Standard 34, Witness Charter consultation advises witnesses to make complaints, in the first instance, to the service provider, Criminal Justice System 2005.

schemes used qualified social workers as supporters, subject to a probationary year in which to complete NSPCC core competencies. In order to provide a support service to parents and carers, one of these schemes recruited volunteers through its website, the local press and the Council for Voluntary Services.

The Area Child Protection Committee schemes recruited personnel employed by member organisations. In one, the organisations concerned were chiefly social services, police, health agencies, NSPCC and education (local education authorities only had a fixed sum for replacement supply teachers so the use of teachers was restricted); one member of the panel was a Victim Support volunteer who was assigned five or six young witnesses per year. Attending court with a young witness was treated as part of the supporter's 'day job'; preparation of the young witness tended to be done on the supporter's own time although some employers gave time off for this. The other Area Child Protection Committee scheme drew on child and youth workers employed by the local authority who did not routinely attend the trial.

Lay volunteers for the Victim Support schemes were recruited from existing Victim Support and Witness Service volunteers, with references obtained about their performance and suitability from current managers. These schemes considered previous experience with young people as desirable but not essential. Experience in child and family work and familiarity with child protection principles was required in schemes where supporters had employed status. One Area Child Protection Committee scheme, for example, expected supporters to have undertaken the Committee's core training (half a day on 'signs and symptoms' of abuse, plus a full day on inter-agency child protection procedures) or to be willing to do so; its scheme administrator was expected to undertake the Committee's five-day training programme.

A survey of up to 25 supporters per scheme was conducted with a response rate of approximately 61 per cent (not all supporters across all six schemes were surveyed, because of the differences in size of supporter pool - see appendix 1). Of the 68 supporters responding to the survey, 53 (78%) were female; 25 (37%) were aged 45 or younger; and 20 (29%) were aged over 60. The pattern of ages varied between schemes. Supporters in two schemes which relied exclusively on volunteers were older on average than those in other schemes: all 20 respondents in one were over 45 years old and 14 were over 60; in the other, two respondents were aged between 31 and 45, four were between 46 and 60 and five were over 60. None of the young witness supporters who responded from other schemes were over 60 and most were under 45.

The importance of promoting equality across criminal justice organisations has been recognised in government objectives.¹¹⁵ Witness support schemes such as those in the study (all of which served multi-ethnic communities) must be able to address the diverse needs of their local community. It is therefore desirable that panels of supporters include supporters from different ethnic groups. An equal opportunities monitoring form completed by supporters responding to the survey revealed that all but two described themselves as White British; the remaining two supporters described themselves as White Irish and Any Other White Background.

In the survey, 57 respondents (84%) from four schemes said they were available to undertake young witness support in the evening and 43 (63%) from five schemes could do so at weekends. Eight (12%) communicated by mobile phone text message with half or more young witnesses.

All schemes required supporters to undergo enhanced Criminal Records Bureau checks to be updated every three years. In one of the agencies, administrative staff also had standard

¹¹⁵ 'Race and the Criminal Justice System: An overview to the complete statistics 2004-2005' (Criminal Justice System, March 2006). In the Foreword, the Secretary of State for Constitutional Affairs, Home Secretary and Attorney General state that it is "essential... for all those organisations responsible for delivering criminal justice to make sure that they promote equality [and] do not discriminate against anyone because of their race".

Criminal Records Bureau checks. The survey asked supporters when their most recent check had been completed. Forty-five (66%) said their most recent check had been carried out in the previous three years; four (6%) reported that their check was more than five years old and the remaining 19 (28%) did not know the date of their check.

Training

Training for social workers employed as young witness supporters by the NSPCC was 'on the job', rather than through attendance at a specific course (one of these schemes reported that staff also attended an internal course on 'Achieving Best Evidence'). Across the other schemes, the length of training for supporters varied between two days (the Area Child Protection Committee schemes) and two and a half or three days (Victim Support).¹¹⁶ The scheme which recruited volunteer family supporters gave candidates training on one day a week for five weeks. Two schemes timed the 'accreditation interview' for volunteers to follow training: one coordinator described this as "giving them skills to pass the interview". Deferring the interview allowed trainers to score or provide observations on the suitability of candidates and enabled candidates to screen themselves out. One scheme's training programme included a family member who gave feedback on the impact of a not guilty verdict; a former young witness was a member of the panel for the interview that followed training. Both of these inputs were seen as enhancing supporter views of the witness's perspective.

Schemes differed in respect of the emphasis put on different aspects of the support role: only two schemes trained supporters to use 'question and answer' games to help prepare young witnesses for cross-examination, giving them the opportunity to practise saying, for example, "I don't understand the question". Two schemes did not train supporters to help young witnesses (and themselves) through stress-reduction and relaxation techniques, although research indicates this is a significant factor in reducing system-induced stress for young witnesses (Sas *et al*, 1991).¹¹⁷

In the survey, 52 supporters (76%) described themselves as 'very well-prepared' to take on the role of supporter as a result of their initial training. These supporters were drawn from all six schemes in the study. A further 16 (24%) said they were 'quite well-prepared'. No supporters considered that they were not well-prepared.

In order to develop a 'knowledge profile' of young witness supporters, the survey asked about the kinds of training they had received at any time in their career (it is not known whether recall was accurate as responses did not always accord with training that support organisations said had been provided. Missing responses are not shown):

¹¹⁶ These volunteers would previously have completed five to seven days' core training.

¹¹⁷ 'Preparing Young Witnesses for Court; a handbook for child witness supporters' (Young Witness Pack, NSPCC, 1998) recommends that supporters receive training in stress reduction techniques for use with young witnesses.

Table 5.3 'Knowledge profile' of young witness supporters

Type of training	Supporters' report of receiving such training (n=68)					
	None		A little		A lot	
	No.	%	No.	%	No.	%
Appropriate behaviour while accompanying child at court	7	10	24	35	36	53
Child development	5	7	19	28	38	56
Children who have been physically/ sexually abused	5	7	20	29	39	57
Children with learning or other disabilities	7	10	23	34	33	49
Needs of children from ethnically diverse backgrounds	9	13	31	46	23	34
Eligibility for Special Measures	4	6	36	53	25	37

Responses indicate that some supporters appeared to be poorly equipped for their enhanced support role, for example in assessing young witnesses with potentially complex needs. As noted in previous chapters, there were marked differences in supporter practice, which also suggested that training and monitoring should be strengthened:

- six (9%) did not assess young witnesses or did so for less than half of their witnesses;¹¹⁸
- 15 (22%) did not pass on information about witness needs or did so for less than half of their witnesses;
- five (7%) did not accompany a young witness on a pretrial visit;
- 41 (60%) did not provide information about relaxation techniques or did so with less than half of their witnesses;
- 26 (38%) did not attend the trial with a witness or did so with less than half of their witnesses;
- 34 (50%) had not seen a young witness give evidence in the previous 12 months;
- four (6%) used Young Witness Pack booklets with less than half of their young witnesses and did not use the video;
- 21 (31%) of supporters did not use 'question and answer' role play with young witnesses and a further 12 (18%) did so with less than half of their young witnesses;
- seven (10%) did not see witnesses for a debrief meeting after the trial;

¹¹⁸ 'Assessing the child's needs' is a chapter in 'Preparing Young Witnesses for Court: a handbook for child witness supporters', a key tool in supporter training: Young Witness Pack, NSPCC, 1998.

- 13 (19%) did not support parents and carers or did so in less than half the cases with which they were involved.

The survey asked if supporters had seen two NSPCC training videos: 28 (41%) had seen 'A Case for Balance' and 25 (37%) had seen 'A Case for Special Measures'.¹¹⁹ Fifty (74%) had their own copy of 'Preparing Young Witnesses for Court: A handbook for child witness supporters' (NSPCC Young Witness Pack, 1998). Supporters with employed status were not markedly different in these respects from lay volunteers.

Although communicating with other criminal justice agencies is an important part of a supporter's responsibilities, only 28 supporters (41%) had taken part in multi-agency training alongside other criminal justice personnel. Again, supporters with a relevant professional background were no more likely to have participated in such training than lay volunteers.

The survey invited supporters to suggest issues on which they wanted more training. Subjects mentioned by volunteers included child development; the implications of sexual and physical abuse; and children with special needs, including learning disabilities. Both lay volunteers and other supporters identified a need for more training on eligibility for Special Measures and updates on relevant legislation.

Training for young witness supporters needs to be revisited in light of requirements from the Children's Workforce Development Council.¹²⁰ The Council has issued new common induction standards for the children's workforce (effective September 2006). These standards aim to bring all 'new starters' in children's services up to the same level of knowledge and include essential principles and values when working with children; effective communication; child development; and safeguarding children. Staff with previous experience and qualifications will have to show knowledge of the standards to be exempted from training. The Council confirmed that the standards also apply to volunteers working with children.¹²¹

Another factor to be addressed in future supporter training is the intermediary Special Measure (section 29 of the Youth Justice and Criminal Evidence Act, 1999), piloted in six pathfinder areas (Plotnikoff and Woolfson, 2007). In other areas, judges may use their common law powers to order the use of an intermediary in the Crown Court. All witnesses under 17 are eligible to be considered for use of an intermediary both at investigative interview and trial.¹²² Supporters are well placed to flag up the communication needs of young witnesses overlooked by the prosecution (or, in the case of a defence witness, by the defence solicitor). This will require supporters to have an understanding of the criteria for use of an intermediary and greater emphasis on witness assessment and passing on information. As previously noted, supporters communicated information about only 62 per cent of scheme-supported witnesses to the criminal justice process. For 69 per cent of these witnesses, the information passed on concerned difficulties the witness might have in answering questions and, for 63 per cent, limited concentration span. These issues are directly relevant when deciding whether an intermediary might help to improve the quality of the young witness's evidence.¹²³

¹¹⁹ Although supporters are not required by National Standards to have watched them, the videos provide a useful overview of good practice issues in relation to young and vulnerable witnesses.

¹²⁰ See www.cwdcouncil.org.uk.

¹²¹ Managers are expected to ensure that all those working directly with children, including volunteers, are suitably equipped for the task: phone communication with authors, 13.10.06.

¹²² Eligibility extends also to adult witnesses with a mental disorder or learning disability and those with a physical disability or physical disorder. If the witness is eligible, the court will allow use of an intermediary (or any special measure) if, in the court's view, it is likely to improve the quality of the witness's evidence, taking account of the witness's own views and the possibility that the measure might inhibit the evidence being tested effectively.

¹²³ Guidance from the Association of Chief Police Officers and the Office for Criminal Justice Reform (2005) stated that an intermediary may be able to help improve the quality of evidence of any child who is unable to detect and cope with misunderstanding, particularly in the court context.

Documentation, supervision and support

National Standards for Young Witness Preparation expect supporters to ‘ensure that the work with the young person is fully documented’ (Home Office *et al.*, 2002, appendix J). All schemes required supporters to provide an overview report of their work with a young witness at the end of the case; all but one scheme expected a report of each contact with the young person. Four schemes had a set time for submission of reports to the scheme manager. In both Victim Support schemes, supporter supervision was conducted through review of contact sheets, telephone feedback and review sessions (group meetings took place monthly in one scheme; the other described supervision as ‘limited’). The NSPCC schemes provided at least monthly individual supervision of its full-time supporters: the scheme with family volunteers gave them monthly group supervision and quarterly individual sessions. In the Area Child Protection Committee schemes, supervision was shared between the supporter’s own agency and scheme coordinators: one planned to introduce two area managers whose responsibility would include professional supervision to improve accountability. Schemes described supervision sessions, debriefs, scrutiny of written records and (where available) feedback forms from young witnesses and parents and carers as the basis for quality assessment of supporters’ work. One Victim Support scheme also mentioned obtaining feedback from the court-based Witness Service.

Supporting young witnesses is in itself a stressful task. Supervision and access to the scheme coordinator were the principal methods by which supporters were themselves supported. Schemes used supervision and group meetings to provide local feedback to supporters from young witnesses and others. One Area Child Protection Committee scheme sent a regular newsletter to all young witness supporters: several found this particularly useful in keeping them updated.¹²⁴

Supporters were asked to rate three aspects of their role under one of four headings (missing responses are not shown):

Table 5.4 Supporters’ rating of aspects of their role

Aspect	Supporter rating (n=68)							
	Poor		Adequate		Good		Excellent	
	No.	%	No.	%	No.	%	No.	%
Support received in role	0	0	6	9	26	38	36	53
Supervision received in role	1	1	14	21	18	26	34	50
Job satisfaction as a supporter	1	1	4	6	28	41	31	46

More than half rated the support and supervision received as excellent. Although job satisfaction was rated slightly lower, 65 (96%) thought they would still be acting as a supporter in two years’ time.

Conclusion

Weaknesses in governance undermined their ability of some schemes to improve, monitor and promote their work. Their position within local criminal justice networks affected the local profile of young witness issues. The quality of performance management and the supervision of supporters varied across schemes. Most criminal justice personnel did not receive

¹²⁴ There are also national mechanisms for sharing practice issues, for example, Victim Support sends out a monthly e-bulletin and a quarterly newsletter ‘Support Network’.

feedback from schemes about what worked well for young witnesses or was problematic (an important way of raising the profile of young witness concerns and of the schemes themselves). It was a concern that some supporters reported having received little or no training (by their scheme or from any other source) on basic competencies, although self-reports about training received did not always accord with training that parent organisations reported having delivered.

6. Conclusions

The final study objective had two strands:

- to advise on key principles which might underlie any national procurement exercise for young witness services (ensuring that existing and new schemes were able to apply, and that schemes would provide value for money);
- to provide model(s) for young witness services and information on good practice by identifying key elements of young witness services.

The first part of the chapter addresses the need for a national strategy for young witness care to ensure that services are made available to young witnesses across the country and key principles upon which the strategy should be based. It also considers how this could be funded. The chapter then discusses six components of a proposed model support service. The final section looks at improvements that could be made to the safeguarding of young witnesses at court, and considers factors that fall outside the control of support schemes but directly affect the ability of schemes to deliver criminal justice objectives concerning young witnesses.

Recommendations based on the findings of this evaluation are highlighted in boxes.

The need for a national strategy for young witness care

No government department has responsibility for provision and monitoring of young witness schemes. Responsibility for criminal justice and witness perspectives sits with the Office for Criminal Justice Reform. Children's services and policy on safeguarding and promoting the welfare of children are the remit of the Department for Education and Skills. The Crown Prosecution Service, Department for Constitutional Affairs and Home Office are principal stakeholders in relation to policy concerning young witnesses.

Over 70 per cent of young witnesses in this study were supported by a specialist scheme. This is not typical of the national picture in which the availability of enhanced services is limited. The need for support needs to be seen in the context of the symptoms of pretrial stress reported by over 80 per cent of young witnesses interviewed, including self-harming, panic attacks, flashbacks of the offence, bed-wetting, headaches, eating and sleep disorders and depression. These self-reports occurred across all age groups; offence types and level of court; and were nearly as high for non-victims as for victims. The evaluation (chapters 2, 3 and 4) demonstrated that, across the six schemes, the benefits of enhanced support to young witnesses were considerable. The study did not identify an impact of enhanced support on conviction rates (definitive evidence on this point would require a more focused exercise than was possible within the scope of this study). However, evidence from a range of sources indicated that enhanced support was a significant factor in enabling young witnesses to attend court who might otherwise not have done so.

Thirty-four per cent of scheme-supported witnesses said support was what made going to court possible (96% said the supporter made them feel more confident about going to court). Schemes reported very low rates of non-attendance which were lower than national estimates of young witnesses' failure to attend. Most criminal justice practitioners thought that the offer of support could influence the decisions of parents to take a case forward, that support encouraged young witnesses to attend court (with the possible knock-on benefit of late guilty plea decisions) and that pretrial preparation contributed to a young witness's ability to give best evidence. Although similar proportions of children in the scheme-supported and comparison groups reported problems with questions, scheme-supported witnesses reported being better able to tell the court their story and deal with problems that arose during questioning. Benefits also accrued where scheme supporters passed on their assessment of the child's needs and wishes to inform criminal-justice decision-making. In summary, young

witness support schemes were considered to add value by contributing to the delivery of a range of government priorities for witness care.

Nevertheless, the findings of this evaluation suggest that the full potential of young witness schemes has not yet been realised. Schemes have developed on an ad hoc local basis, without national direction and even schemes operating under the same national umbrella operate differently. There is currently no specialist support available in many parts of the country. Even where schemes are operating, the number of young people who benefit is usually restricted (only one of the six specialist schemes in this study was available to all young witnesses across the criminal justice area). Schemes also differed in their approach to the support offered. For example, over three-quarters of the young witnesses interviewed reported a problem of some kind with questioning. The child witness supporters' handbook recommends the use of 'question and answer' games to help young witnesses understand the rules about answering questions at court (such as 'listen carefully and say if you do not understand a question'); they can also learn how to provide the more detailed information required at court (NSPCC Young Witness Pack, 1998; Saywitz, 1995, 1996). However, only two of the six schemes trained supporters to use this type of role play about non-evidential matters. Existing National Standards, which currently only advise supporters to discuss 'the nature of cross-examination' (Home Office *et al.*, 2002, appendix J) need to be revised to include such key elements of support.

In conjunction with improved National Standards, a national strategy is needed to ensure that schemes meeting the Standards are available to all witnesses. This is likely to result in increased benefits for young witnesses, their parents and carers and the criminal justice system.

The findings of this study suggest that it would be beneficial for the national strategy for young witness care to look beyond the provision of young witness support. The study demonstrated that, 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 best evidence was limited by factors outside their scope and influence.

The 'Safeguarding children' context

Services for young witnesses must comply with the framework for delivery of children's services as set out in the Children Act 2004. This requires services to focus on:

- improving outcomes for all children and young people (three of the five key outcomes are directly relevant to young witnesses, i.e. being healthy, staying safe and making a positive contribution);
- services organised around the young person, integrated across professional boundaries;
- a statutory duty to cooperate across organisations and provide inter-agency monitoring of services;
- a statutory duty to safeguard and promote the welfare of children.

National Standards expect the young witness supporter to focus 'entirely on the young person's welfare in preparing for the experience of giving evidence' and liaise with other agencies as necessary (Home Office *et al.*, 2002, appendix J). In this study, the need to focus on children's welfare was sometimes the cause of friction with criminal justice personnel, who may have regarded a primary aim of young witness support as being to further criminal justice system objectives.

The self-reports of stress experienced by young witnesses before the trial, described above, illustrate the particular vulnerability of this group and the importance of safeguarding and promoting their welfare. In order to strengthen the way young witness schemes operate on

behalf of young people and, in particular, for their safeguarding responsibilities to be better understood in the criminal justice environment, it is crucial for schemes to be firmly rooted within the framework for delivery of children's services.

The government should develop a national strategy for young witness care to ensure that dedicated services are made available in a consistent manner across all criminal justice areas. It should also look beyond the provision of support services to address other factors limiting children's ability to give their best evidence. This strategy should be set in the context of the government's safeguarding children agenda,

Future funding for young witness support

The study objectives called for consideration of whether schemes should be nationally funded. The findings from the six study schemes indicate that without some degree of national funding and coordination to establish consistent provision of enhanced services consistently across the country, the availability of such services will continue to depend on the presence locally of committed individuals and organisations. The present situation has led to a patchwork of enhanced support for young witnesses throughout the country, with some areas not covered. Simply devolving funding to local areas – allowing each to decide how young witness service should be delivered – might therefore be likely to perpetuate differences in access and levels of service. Initial national funding and coordination would introduce to all areas enhanced support services for young witnesses that are currently available only to those who fall within the catchment area and scope of an existing specialist scheme.

Local Criminal Justice Boards and local structures to deliver the government's safeguarding agenda share an interest in improved provision of young witness services. Children's Trusts are responsible for planning, commissioning and service delivery¹²⁵; Local Safeguarding Children Boards¹²⁶ are the statutory mechanism for agreeing how organisations will cooperate to safeguard and promote children's welfare, and for ensuring the effectiveness of what they do (Department for Education and Skills, 2006). The precise strategy for procurement should be a matter for consultation between the Office for Criminal Justice Reform and other relevant government departments. The standards and good practice principles set out in this report provide the basis for a procurement exercise that would fund for a limited period the scheme coordinator's role and technological support. Tenderers would be required to offer support services to young witnesses across a criminal justice area, either as a single provider or a consortium working to an integrated plan. The responsibilities of Local Criminal Justice Boards for monitoring the effectiveness of young witness services within their area should be discussed with the Boards and set out clearly in the tender documentation.

If the availability of matched funding were a procurement requirement then those areas where no such funding could be found would be left without a service. On the other hand, nothing should be done that would discourage existing funders from continuing to contribute or discourage new funders from doing so. These concerns could be met by stipulating that preference in awarding contracts will be given to tenderers who obtain contributions to scheme costs from other organisations, providing they can demonstrate that the proposed service complies with the standards set out in this report. Such contributions may be either financial or in kind, for instance by providing accommodation, training facilities or donation of employees' professional time. In particular, this would mean existing schemes were well-placed to win support contracts.

¹²⁵ Trusts may coordinate across geographical boundaries on specific issues. Trusts are based on 150 local authorities whereas Local Criminal Justice Boards are based on 42 areas.

¹²⁶ One study scheme is now fully funded by its local authority Local Safeguarding Children Boards (formerly Area Child Protection Committees).

In areas where no scheme currently exists and where no alternative funding sources can be identified, it may be necessary for central government to fully fund schemes for the start-up period. Once new schemes are up and running and the benefits of their work become apparent, responsibility for funding could transfer to Local Criminal Justice Board and Children's Trust partner organisations.

The Office for Criminal Justice Reform should consult with other stakeholder organisations about appropriate procurement of young witness support services for each criminal justice area. In evaluating responses, preference should be given to schemes that can obtain contributions to running costs from other sources.

Components of a model young witness support service

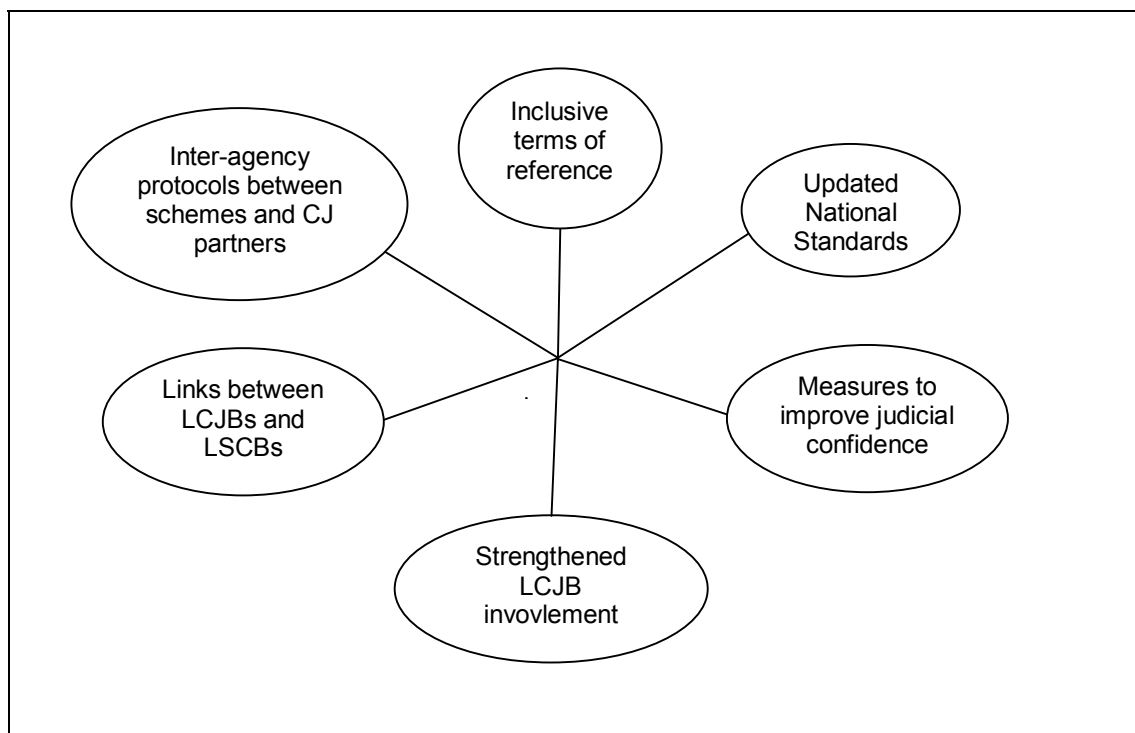
This section addresses the objective to provide model(s) for young witness services and information on good practice by identifying key elements of such services. A single model of good practice was identified, incorporating minimum requirements for service provision. The essential elements are based on good practice identified in one or more of the schemes in the evaluation, but most closely match practice in one of the specialist initiatives:

Examples of good practice in one or more young witness scheme areas include:

- interagency protocols on referrals at point of charge, identification of young witnesses already in the court process who were not previously referred to the scheme and procedures to offer support at a later stage to those who initially declined;
- a structured preparation programme in accordance with National Standards. This is tailored to the supporter's assessment of young witness needs and concerns about giving evidence and delivered through home and court visits. The programme includes practising rules for answering questions at court through role play, teaching stress reduction and anxiety management techniques and the offer of support post trial;
- passing on the supporter's assessment of witness needs and wishes to others in the criminal justice process, requesting that witnesses are able to refresh their memory by seeing their statement before trial and liaising about arrangements to minimise waiting time at court (including use of stand-by arrangements);
- providing emotional support by accompanying young witnesses while giving evidence;
- supporting parents and carers;
- providing a remote TV link to courts from support scheme premises;
- inter-agency representation on the scheme's management group and scheme representation on the Local Criminal Justice Board subcommittee which addresses young witness issues in its plans for delivering government witness priorities;
- clear terms of reference and scheme objectives that included the advocacy role on behalf of young witnesses;
- effective governance, supervision and monitoring (including data collection, analysis and report production), initial and follow-up training for supporters (including multi-agency training through the Local Safeguarding Children Board);
- requesting feedback from young witnesses and providing feedback to the judiciary about support methods and what works well or is problematic for young witnesses.

The model should be used in producing a template for management, delivery and monitoring of young witness services. Six key components were identified:

Figure 6.1 Components of a model young witness service



Terms of reference

The study found that four of the five criminal justice areas in the study had no strategy to ensure that specialist support was offered to all young witnesses across its area. As noted in relation to witness pretrial stress levels at the beginning of this chapter, levels of need cannot be predicted solely by the age of the witness, victim status, level of court or type of offence.

Good practice set out in 'Achieving Best Evidence in Criminal Proceedings', including the provision of preparation and support to young and other vulnerable witnesses, applies to both prosecution and defence witnesses (Home Office *et al.*, 2002). This evaluation was based solely on interviews with those testifying for the prosecution: it is possible that a study drawing on the experiences of other categories of young witness might identify some variations in the detail of good practice. While schemes in this evaluation with experience of other types of young witnesses reported that all young people required to give evidence shared a basic need for information and support, further evaluation is needed to establish the specific needs of these other groups of witnesses.

The findings of this evaluation suggest that terms of reference of a child-centred model scheme for witnesses in criminal cases should offer support to all witnesses of aged 17 and under in a criminal justice area, regardless of offence types. They also indicated the need for young witness schemes to be separately managed within a child-centred organisation. Where young witness schemes were accommodated alongside adult services, difficulties had been experienced in raising the profile of the young witness scheme with local criminal justice organisations, ring-fencing funding and providing continuity of support for young witnesses through to court. All these factors had an impact on the services received by young witnesses.

The model young witness scheme should offer its services to all young witnesses of 17 and under in a criminal justice area. The scheme should be separately managed within a child-centred organisation.

By whom should young witness services be delivered?

Management of a young witness service is a full-time role. The supporter panel, on the other hand, needs flexibility to accommodate irregular hours and surges in work. Contact often takes place after school, in the evenings and on weekends. Study findings suggest that a panel consisting only of full-time supporters would not be an effective way of meeting need across a criminal justice area (though such supporters may provide an important part of the service).

Most study schemes had little spare capacity. As currently resourced, all but one would find it difficult to extend the scope of their services. In scheme E, pretrial support accounted for only part of the time of the employed social workers who were also engaged in delivering post-trial therapy; in scheme F, the work of a single supporter was targeted at a specific class of witness in just one court. Scheme A drew on employed children's services workers, but did not have the capacity to enable them to accompany young witnesses to court. Schemes C and D had recruited and trained a large pool of lay volunteer supporters.¹²⁷ However, the study found that these schemes had difficulty in delivering targeted services to all young witnesses throughout their criminal justice areas. They delivered significantly lower levels of service (for example, in hours of face-to-face contact with the witness) and had lower compliance with National Standards for preparation (for example, in delivery of the Young Witness Pack). They also received lower ratings from young witnesses (who were asked about how helpful their supporter was) and from parents and carers (who were asked whether their child had enough contact with the supporter before and after court) compared with schemes using supporters with a competency-based background and relevant work skills in communicating with children.¹²⁸

The size and composition of scheme B's supporter panel enabled it to serve the greatest number of witnesses. Due to the support of Area Child Protection Committee partner organisations, it maintained a pool of 120 supporters with relevant work-related skills (for example, from social care, police, health and education¹²⁹). This scheme had higher than average direct contact with young witnesses (as reported by young witnesses) and received above-average appreciation ratings. According to criminal justice personnel, there were few 'missed' referrals to the scheme across the entire criminal justice area.

The evaluation findings demonstrated that schemes whose supporters had work-related skills and training were better able to deliver services across a range of measures.

¹²⁷ Specialist Victim Support schemes had to be sensitive about drawing away volunteers already engaged in Witness Service or community-based Victim Support.

¹²⁸ However, other factors might also have a bearing on this: one of the schemes was relatively new and the other operated with part-time coordinators.

¹²⁹ The employment contract of at least one education authority in this area deals with release of employee time to the young witness service.

The model for delivery of area-wide support should involve a full-time manager and a core panel of supporters with child-related work experience and training who demonstrate relevant competencies (for example, in child development, communication skills with children, child protection procedures, work with children with learning or other disabilities and the needs of children from ethnically diverse backgrounds). This does not exclude the use of 'lay' supporters, particularly those with criminal justice experience, provided they are recruited, trained and supervised appropriately.

It is preferable for the panel to be made up of those who volunteer their own time or whose employers do so. 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 size of the panel must be large enough to provide flexibility and resilience in coping with fluctuations in workload. The scheme must have access to an adequate range of skills (for example, to work with abuse victims, very young children or those with learning or physical difficulties). This combination of a large enough pool with the necessary skills will assure the availability of resources required to meet the assessed needs of young witnesses.

National Standards

Current guidance for supporters is set out in the National Standards for Young Witness Preparation (Appendix J) and the National Standards for the Court Witness Supporter in the CCTV Link Room (Appendix F) published in 'Achieving Best Evidence in Criminal Proceedings' (Home Office *et al.*, 2002). These address the characteristics of the young witness supporter; the key support tasks; and the role of the supporter in the TV link room. The evaluation found that, while services to young witnesses complied in most respects with existing Standards, delivery was uneven across the schemes. There were also aspects of the support role that were not covered by a Standard.

The National Standards have been overtaken by various new policy documents and should be updated to reflect the full range of support activities and to cross-refer these additions to the young witness policy framework. The production of enhanced Standards, addressing the responsibilities of specialist support schemes as well as individual supporters, would make compliance monitoring easier. The new policy documents include:

- Crown Prosecution Service (2006) 'Children and Young People: CPS policy on prosecuting criminal cases involving children and young people as victims and witnesses';
- Office for Criminal Justice Reform (2005) 'Code of Practice for Victims of Crime';
- Department for Constitutional Affairs (2005) 'Criminal Case Management Framework';
- Courts Service (2005) 'Every Witness Matters: Employee Handbook';
- Criminal Justice System (2005) 'The Witness Charter: New standards of care for witnesses in the criminal justice system. Consultation';¹³⁰
- Victim Support's national standards (2005).

Appendix 2 sets out extracts from existing Standards and policies along with suggested revisions (this document could form the basis of an Office for Criminal Justice Reform

¹³⁰ This document is still in development. It will replace existing multi-agency standards contained in 'Statement of National Standards of Witness Care in the Criminal Justice System: Taking forward standards of witness care through Local Service level Agreements', Trials Issues Group (1996).

consultation exercise with specialist support and other relevant organisations). These recommendations are summarised in the next section.

Many Standards relate to prosecution witnesses but may also be relevant to support of defence witnesses, bearing in mind that responsibility for referral of defence witnesses to support services lies with the defence solicitor, not the police or Witness Care Units.

Standards for referral and assessment

Standards for the supporter should be revised to include activities many supporters carry out routinely: assessment of witness needs and wishes; seeking information from parents and carers, police and other organisations as appropriate; and passing on relevant information to criminal justice personnel as necessary (set out in full in Appendix 2). Assessment to determine the level of individual need is crucial as this cannot be determined automatically by the type of offence or the status of the witness as victim.

As noted above, a high proportion of young witnesses reported experiencing symptoms of stress in the pretrial period. The needs of individual young witnesses for assistance should be assessed soon after the point of charge, even if all that is needed at that stage is an explanation of the services on offer and reassurance that help will be available later if the case goes to court. Standards should address referral to young witness schemes to ensure effective identification of all those within the scheme's terms of reference (to minimise the risk of young witnesses who need help being overlooked); early assessment to identify those in need of immediate assistance and to match supporter skills to witness needs; and ongoing assessment that feeds information to criminal justice personnel about the needs and wishes of the witness (to inform decision-making). The study found that most schemes took referrals at the point of charge. Where justified by an assessment of witness need, a supporter should be assigned to begin work at that stage.

A model referral procedure has the following characteristics.

Schemes and their criminal justice partners:

- agree that all witnesses are referred to the scheme at the point of charge;
- agree the consent requirement for referral to the scheme (taking account of data sharing arrangements for 'children in need' under section 17, Children Act 2004);
- use secure email (rather than fax) for referrals and other communications;
- establish effective safety net procedures to flag up young witnesses already in the court process who were not previously referred to the scheme;
- establish follow-up procedures at regular intervals for those who have previously declined support, to enable them to opt in at a later stage;
- establish procedures for schemes to notify the Crown Prosecution Service about referral, appointment of the supporter, young witness needs and wishes (the 'witness profile') and about the work undertaken with the young witness.

Schemes send information to parents and carers immediately after referral informing them about the support on offer and providing a copy of the Young Witness Pack leaflet 'Your child is a witness'.

Schemes telephone parents and carers to:

- discuss whether the young witness and/ or parent or carer may need support prior to the decision as to whether the case will go to trial;

- explain that face-to-face support and preparation of the young witness normally begins once a 'not guilty' plea has been entered, but witnesses and the parent/ carer can ask for assistance before this starts;
- identify the needs of the witness (including any communication needs which may suggest the use of an intermediary at trial);
- collect information relevant to any other Special Measures application.

Schemes also:

- document information obtained at the initial contact on a standard assessment form;
- use assessment information to match the skills of the supporter to the needs of the witness;
- ask the parent or carer to sign a form listing key policies, including access to information about the child kept by the scheme, to indicate agreement about the work to be undertaken.

Standards for support and pretrial preparation

Existing Standards and policies for support reveal some overlap between responsibilities of criminal justice organisations, particularly Witness Care Units, and young witness supporters. These are again set out in Appendix 2 along with suggested additional responsibilities for the supporter including:

- developing a tailored preparation and support programme, based on assessment of witness needs taking account, for example, of the witness's concentration span, communication skills and fears about court. The programme should specify ways to encourage the child's active participation as set out in the child witness supporters' handbook 'Preparing Young Witnesses for Court' (NSPCC Young Witness Pack, 1998);
- using non-evidential 'question and answer' scenarios, approved by the Crown Prosecution Service, to encourage the witness to practise rules about questioning at court;
- according to witness need, offering court familiarisation and home visits (following risk assessment in relation to the safety of the supporter);
- liaising with the police and Witness Care Unit to ensure that witnesses see their video/ DVD or written statement before trial for the purpose of refreshing memory and advising the witness and parent or carer of this entitlement;
- attending court with the witness on the day of trial wherever possible, or identifying an alternative supporter who meets the child before the day of trial;
- becoming familiar with techniques on stress reduction and anxiety management, as set out in the child witness supporters' handbook, and identifying techniques appropriate to the young person's needs;
- assessing whether the witness would benefit from emotional support while giving evidence and discussing this with the witness and Crown Prosecution Service, with a view to prosecutors making an application to the court for a named supporter to accompany the child where appropriate;
- addressing the support needs of parents and carers.

Standards for recruitment and training

The recruitment process in a model scheme has the following features:

- supporters are advised of the expectation that they will make home visits and attend court with witnesses;
- the age profile of the supporter panel is considered. This has implications for turnover: nearly 30 per cent of supporters surveyed were over 60 (all from Victim Support schemes). Most supporters who responded from other schemes were under 45;
- the ethnicity profile of the community served by the scheme is considered. All 68 supporters surveyed described themselves as White. One scheme had an outreach worker for advice on cultural issues.

Supporters in the study were drawn from different backgrounds: Victim Support volunteers (recruited from Victim Support or the Witness Service, some of whom had prior experience of working with children); those who were directly employed (social workers); and professionals whose employer agreed to their support role (typically, those employed in children's services, the health sector or the criminal justice system).

The National Standards for Young Witness Preparation list key characteristics of the supporter (Home Office *et al.*, 2002, appendix J). Drawing on good practice across the schemes, 'child-centred' core competencies for supporters include knowledge of:

- child development (for example, an understanding of the stages of cognitive development, in particular the implications for children's understanding and verbal and adolescent norms and behaviours);
- communication skills with children;
- child protection procedures and dealing with children who have been abused;
- children with learning or other disabilities;
- the needs of children from ethnically diverse backgrounds.

To enable supporters to work in partnership with others in the criminal justice system and pass on information about young witnesses effectively, additional core competencies include:

- an understanding of the criminal justice process;
- an understanding of victim and witness concerns;
- familiarity with the roles and responsibilities of criminal justice organisations;
- knowledge of witness eligibility criteria for Special Measures.

Candidates for the position of supporter should have relevant competencies in relation to children or the criminal justice system or both. Training on the issues described above should ensure that supporters come up to a common, required standard. It was good practice adopted by some schemes to conduct the formal interview after training. This allowed candidates to acquire or strengthen skills and for those who were inappropriate to be screened out. It was of concern that some supporters in the survey who were actively involved with young witnesses reported having received little or no training (by their scheme or from any other source) on basic competencies (however, self-reports about training

received did not always accord with training that parent organisations reported having delivered).

Schemes differed as to whether any training for supporters was delivered under the auspices of the Area Child Protection Committee, now Local Safeguarding Children Board. It is the Board's responsibility to ensure that multi-agency training on safeguarding and promoting welfare that meets local needs is provided (para 3.22, Department for Education and Skills, 2006). It would be helpful in promoting integrated services if some joint training was provided bringing together young witness supporters, the court-based Witness Service, ushers and others (such as court witness liaison officers and Crown Prosecution Service caseworkers) also dealing with young witnesses.

Training for supporters (both employed and those in the voluntary sector) needs to be revisited in light of standards required by the Children's Workforce Development Council,¹³¹ discussed in the previous chapter.

There is now a wealth of material and experience on what constitutes good practice for young witness supporters. In order to promote compliance with National Standards and improve consistency of practice, some formal accreditation should be developed for this role (for example, through further education including distance-learning programmes), which would assist in giving it greater credibility in the criminal justice system.

Standards for governance and administration

Good governance and administration arrangements are key ingredients of a model young witness scheme. They have an impact both on the effectiveness of service delivery and the status of the scheme as a partner in the criminal justice network. Characteristics of the governance of a model scheme (drawn from schemes in the evaluation) include the following:

- objectives that are child-focused, acknowledge the advocacy role of supporters and address working in partnership with others in the criminal justice system;
- a scheme coordinator with knowledge of child protection and familiarity with the criminal justice system;
- a management or steering group that includes inter-agency representation from criminal justice and children's organisations;
- back-up arrangements to ensure coverage in the absence of the scheme coordinator;
- a database (and associated staffing resource) as operated by one of the Area Child Protection Committee schemes and described in chapter 5 of this report, to provide active case management of referrals and to serve the management information needs of funders, management groups, the Local Criminal Justice Board, Children's Trusts and Local Safeguarding Children Boards;
- where scheme premises are unsuitable for children,¹³² facilities are identified (e.g. family support centres) where a supporter can work with a young witness if necessary;
- the supervision of supporters and monitoring of their work against Standards;

¹³¹ See www.cwdcouncil.org.uk.

¹³² Two schemes operated from police stations. While home visits are desirable, they are not always possible. Schemes should therefore have some appropriate alternative location where they can work with young witnesses other than the court itself.

- a requirement that supporters record all contacts with young witnesses, and that reports on work undertaken be submitted to the scheme coordinator within set time limits;
- ensuring that the judiciary and criminal justice personnel receive information about the scheme and that they are invited (for example, by periodic survey) to give feedback about young witness issues and concerns;
- seeking feedback (including complaints procedures) from young witnesses and their parents or carers about the service provided and the court experience in a way that is independent of the supporter concerned;
- periodically providing to the judiciary and criminal justice personnel a summary of what is working well and what has proved problematic.

Ongoing awareness-raising with the local criminal justice community (for example, through delivery of inter-agency training and distribution of annual reports) and other children's service providers has resource implications. These are, however, core scheme activities. Information for the public (for example, through posters and other publicity) is also important.

Awareness of the scheme has an impact on:

- judicial confidence in young witness preparation before the trial and support of the witness at trial and while giving evidence;
- effectiveness of initial and safety net referrals to the scheme;
- criminal justice system knowledge about the needs of young witnesses and how support can affect outcomes for the young witness and the case;
- self-referral by some young witnesses and parents or carers (although schemes reported few self-referrals).

It also seems likely that greater public awareness of the availability of specialist young witness support will contribute to public confidence that young witnesses in the criminal justice system will be treated appropriately.

The young witness support model should be based on National Standards. The government should update the National Standards to provide a comprehensive framework covering referral and assessment; support and preparation of young witnesses; recruitment and training (addressing core competencies and standards required by the Children's Workforce Development Council); and governance and administration. The consultation exercise should explore the question of accreditation for the role of young witness supporter.

Measures to ensure judicial confidence

It is essential that the judiciary has confidence in the work carried out by young witness supporters. However, judges in the current evaluation generally were unfamiliar with National Standards for young witness support¹³³ or the handbook for child witness supporters 'Preparing young witnesses for court' (NSPCC Young Witness Pack, 1998) which details supporters' activities and the training they should receive. None of the judges interviewed or surveyed identified concerns about specific pretrial preparation activities currently undertaken by local schemes. Several were very much in favour of the work of young witness supporters.

¹³³ In Western Australia, a Supreme Court judge chairs an inter-agency group on the Child Witness Service.

A few judges, however, expressed some disquiet about the scheme advocacy role or what might be considered inappropriate behaviour, such as ‘inappropriate’ body language while supporting the witness. At the moment, there is no clear agreement about the scope of the advocacy role or a precise understanding of what constitutes ‘inappropriate behaviour’ for a supporter.¹³⁴ It was not possible during this research to assess the merits of critical judicial comments because areas had no agreed procedure for investigating and documenting concerns.

The model young witness service needs to incorporate measures aimed at strengthening judicial confidence in young witness support. Such measures include:

- documenting the scope of the advocacy role in agreed terms of reference for young witness support schemes;
- a model complaints procedure for local use by witness support schemes and courts. Any alleged breach of standards by a supporter, at the court or away from it, should be the subject of inter-agency procedures agreed in consultation with the judiciary. Any complaint should be independently investigated;
- strengthening of National Standards, in consultation with the judiciary, to cover activity (including body language) of anyone supporting a young witness at court.

Local steps to increase awareness and raise judicial confidence in scheme activities include:

- ensuring that a complaints procedure based on the model is in place;
- asking a member of the judiciary to speak to young supporters in training;
- ensuring that all local judges and magistrates receive information about the National Standards, the scope of young witness preparation and periodic feedback about the young witnesses supported by the scheme.

National steps to increase awareness and raise confidence in scheme activities include providing the judiciary with periodic updates about relevant developments and research.

Safeguarding young witnesses at court

Findings from young witness interviews conducted for this study in five criminal justice areas suggest that the national strategy for young witness care should look beyond the provision of young witness support to address factors that impede delivery of criminal justice objectives concerning young witnesses. These relate particularly to enabling children to give best evidence and reducing the trauma of cross-examination. Cleland and Sutherland (1996) note that Article 12 of the UN Convention on the Rights of the Child places an obligation on courts “to create the optimum circumstances in which a child as witness is freed to give his or her account of events”. The provision of enhanced support before trial is only one factor contributing to these ‘optimum circumstances’.

The government is committed to ensuring that “people work together to safeguard children” at court, recognising the “danger that children can become victims for a second time during criminal cases because of the way they are treated” (Crown Prosecution Service, 2006). The government’s ‘Every Child Matters’ programme aims to improve outcomes for children in five

¹³⁴ Detailed guidance entitled ‘The role and behaviour of supporters’ was issued as part of a vulnerable witness pack in Scotland, Scottish Executive 2005. This addresses not only the choice of supporter but also behaviour before and during the witness’s evidence and during breaks. It also deals with body language and facial expression – some of the inadvertent types of influence that concerned a few judges in the study.

key areas, of which at least three¹³⁵ are directly relevant to young witnesses: 'being healthy' (given the high levels of stress experienced by young witnesses as reported in chapter 4); 'making a positive contribution' (given the criminal justice system requirement that they give evidence); and 'staying safe'. Working Together' defines 'safeguarding and promoting the welfare of children' as protecting children from abuse and neglect and preventing impairment of their health and development (Department for Education and Skills, 2006).

The report issued by eight joint Inspectorates entitled 'Safeguarding Children' warned that some agencies, "particularly in the justice system, have not yet reflected upon what safeguarding means for their work" (para 2.3, Commission for Social Care Inspection *et al.*, 2005). The government has acknowledged this problem (para 17, Department for Education and Skills, 2006). The Joint Inspectors recommended that all agencies directly involved with children should:

- "identify the relevant safeguarding issues specific to their area of work;
- ensure that there are policies and procedures in place to address these issues;
- put in place regular quality assurance and monitoring systems to ensure that the policy is followed through consistently in practice, and demonstrates effective outcomes" (para 3.11).

'Safeguarding Children' emphasised that young witnesses in criminal proceedings need special care, but said the report could provide only a partial picture of how well children are safeguarded in the justice system. It acknowledged a 'particular gap' in respect of the higher courts. Although there is now unified courts inspection through Her Majesty's Inspectorate of Court Administration, the report pointed out that this did not cover the exercise of judicial discretion (para 6.2).

The study identified three matters set out below, drawn from experience in five criminal justice areas in the study, where improvements to safeguarding arrangements would increase the likelihood that young witnesses could give their best evidence. These could be taken forward in ways that would still enable the evidence of young witnesses to be tested and not impede the rights of the defendant to a fair trial.

Identification of a supporter to provide emotional support to the young witness while giving evidence

When describing their feelings during cross-examination, the experiences reported by scheme-supported and comparison group witnesses were very similar, with around 80 per cent (85 of the 106) reporting one or more symptoms of stress. Giving evidence away from the courtroom and out of the presence of the defendant was greatly appreciated by most witnesses, but the 'trade-off' was that it often involved isolation in a cramped and stuffy room with someone the young person did not know.¹³⁶ Sixty-two per cent of Crown Court judges contributing to this study (18 out of 29) said it was the norm for young witnesses to be accompanied in the TV link room by the usher alone.¹³⁷

National Standards for the Court Witness Supporter in the CCTV Link Room (Home Office *et al.*, appendix F) state that the key characteristics of the person acting in this capacity include "someone with whom the witness has a relationship of trust. Ideally, this should be the person

¹³⁵ The remaining two outcomes are 'enjoying and achieving' and 'achieving economic well-being'.

¹³⁶ The role of the usher should not be merged with the role of the supporter, Davies and Seymour 1997.

¹³⁷ Until 2006, court ushers who escort young witnesses were not required to have Criminal Records Bureau checks, although an enhanced check is required for a Witness Service or young witness supporter. The Department for Constitutional Affairs has instituted enhanced Criminal Records Bureau checks on ushers (see Recommendation 13, 'Making Safeguarding Everyone's Business' DfES 2006) and has suggested alternative options to the courts as an interim measure.

preparing the witness for court". The supporter's presence is intended to provide emotional support, reduce anxiety and contribute to the witness's ability to give best evidence (para 5.85, Home Office *et al.*, 2002). Young witnesses are likely to show greater accuracy in a more supportive environment (Moston, 1992; Batterman-Faunce and Goodman, 1993). This study drew on experience in 10 Crown Court centres, 17 magistrates' courts and 14 youth courts. Only 16 per cent of young witnesses in the Crown Court and 31 per cent in the magistrates' or youth court were accompanied in the TV link room by a person of their choice. Ten children not given this option were aged between five and 11.

The TV link room Standards are not working as intended. There is little evidence of the 'greater flexibility' called for by the Lord Chief Justice's Practice Direction (2002). The Crown Prosecution Service in most areas was reluctant to make any application for a supporter that conflicted with usual practice at the local court. It seems unlikely, more than 15 years after the introduction of TV links, that there will be any substantial shift in practice. The availability of impartial, independent emotional support should depend on the assessed needs of the individual child in giving best evidence, not on local norms. It would be helpful if the availability of a supporter (not just an escort) in the TV link room became a statutory Special Measure, as in Scotland and New Zealand.¹³⁸ The CPS should consider the needs of young witnesses for emotional support and make applications as appropriate, with the presumption that the application will be granted if the need is made out. Judicial discretion to approve the individual proposed would remain, but if that person was not acceptable, some other impartial person known and trusted by the child should be considered, rather than no emotional support being provided, as happened in many study cases.

The physical environment at court and the use of remote TV links

The physical environment at many courts was unsuitable for young witnesses, particularly when long delays were involved. Problems were exacerbated where there was no separate access to court buildings or secure access between young witness waiting areas and TV link rooms. In these courts, encounters with the defendant or his or her supporters were possible. Use of remote TV links between courts (where a young witness gives evidence at one court location to a trial elsewhere) addresses security concerns but not deficiencies in facilities at host courts, such as waiting areas where children cannot be segregated and TV link rooms which are cramped and unventilated. In these circumstances, it is preferable to locate remote TV links in more child-friendly surroundings away from the court.

A remote TV link was located in the premises of only one scheme in the study. It was used routinely to link to magistrates' courts but the local Crown Court declined to use it. However, the majority of judges, magistrates and lawyers surveyed were in favour of placing remote links in support scheme premises. Feedback from a Crown Court outside the fieldwork areas emphasised the benefits to young people of using the remote link and said that practical problems (for example, relating to exhibits) were overcome with advance planning. At the end of this study, the Department for Constitutional Affairs and Office for Criminal Justice Reform were developing a protocol on TV link rooms and remote links in court and non-court buildings. Judicial confidence in the criteria for using appropriate non-court locations is critical. Detailed input should be obtained from judges, magistrates, court personnel and others with experience of remote links to non-court locations, to address the concerns of those who did not favour remote links as a viable alternative to bringing young witnesses to court.

Questioning that enables young witnesses to give truthful, accurate and complete testimony

The final safeguarding concern relates to the questioning of children at court with the objective of obtaining best evidence. The study found that the scheme-supported and comparison groups of young witnesses reported similar levels of difficulty with the content and

¹³⁸ Section 271L, Criminal Procedure (Scotland) Act 1995, as amended by Vulnerable Witness (Scotland) Act 2004. Most supporters in Scotland are drawn from the child's circle of acquaintances. They can sit 'alongside the witness' and even give evidence themselves provided this takes place before acting as supporter. In New Zealand, section 375A, Crimes Act 1961 gives complainants in sexual offence cases the right to a supporter while they give evidence.

style of questioning. This suggests that preparation for court, however effective in equipping young witnesses with an understanding of the court process, was not enough by itself to address questioning at court that fails to take account of witness needs and communication abilities.¹³⁹ The findings indicate that elements of the court process also need to be addressed.

Research in this country and in other jurisdictions has documented young witnesses' communication problems in the courtroom (Ellison, 2002; Saywitz, 1994). Judges in this country do not routinely set ground rules for advocates before they begin questioning young witnesses.¹⁴⁰ Feedback from young witnesses in this and other studies¹⁴¹ strongly suggests that professionals in the courtroom often fail to recognise the full extent of communication problems. In this evaluation, 48 per cent of witnesses who gave evidence at court said they did not understand some questions and 80 per cent reported a problem of some kind with questions. Effective questioning of child witnesses at court requires an understanding of linguistic, cognitive and emotional child development: judges¹⁴² and advocates¹⁴³ need this information to enable them to monitor whether questions are appropriate to the age and capacity of the witness (Schuman et al., 1999). Updates are necessary as this is an area of knowledge in constant development.¹⁴⁴

The intermediary Special Measure (section 29, Youth Justice and Criminal Evidence Act, 1999), currently being used in six pathfinder areas, recognises that courts sometimes need expert assistance to facilitate communication with vulnerable witnesses and maximise the quality of their evidence. Witnesses under 17 are eligible as a group for this special measure. A 'rule of thumb' indication of the need for an intermediary to assess the witness is where the child seems unlikely to be able to recognise a problematic question or tell the questioner that he or she has not understood.¹⁴⁵ While an intermediary can assist in flagging a communication problem, judges retain responsibility for monitoring oppressive or repetitive questioning.

¹³⁹ Research concerning Crown Court witnesses found that although some witnesses benefit from services provided by the Witness Service, this does little to assist witnesses giving evidence and does not ameliorate the unpleasantness for witnesses inherent in cross-examination: Riding 1999.

¹⁴⁰ Before the child gives evidence, judges in California are advised to ask what steps advocates are taking to ensure that questions are developmentally appropriate, and warn that if they fail to do so, the judge will intervene, section 1.7, California Center for Judicial Education and Research 2002.

¹⁴¹ Studies noting that children's lack of comprehension may not be immediately apparent to trial participants include Davies and Noon 1991; Murray 1995; and Henderson 2002, 2003.

¹⁴² They are expected to be vigilant in guarding against 'over-rigorous cross-examination' and ensure that advocates 'use language that is free of jargon and appropriate to the age of the child', that questions are 'unambiguous', and that the child is 'given full opportunity to answer', para 4.4.3, Judicial Studies Board 2004. However, research in Australia indicates that, even where specialist education is provided to judicial officers and prosecution lawyers, it may be unclear what effect this has on practice: Cashmore and Trimboli, 2005.

¹⁴³ Lawyers are expected to object if cross-examination is 'unreasonable, unfair, offensive or oppressive': Standard 29, Criminal Justice System 2005. They should ask the judiciary to ensure that language matches the child's age and abilities, para 4.24, Crown Prosecution Service 2005.

¹⁴⁴ For example, rates of childhood autism (a lifelong developmental disability affecting how a person communicates) are now suggested to be around one per cent, far higher than previous estimates, Baird et al. 2006. Chronic childhood trauma interferes with neurobiological development and questions reminding of the trauma may cause the child to 'freeze' and shut down their ability to respond, van der Kolk 2005. An overview of current issues in psychological research and practice relating to child witnesses is given in Westcott 2006.

¹⁴⁵ Association of Chief Police Officers and Office for Criminal Justice Reform 2005.

The national strategy for young witness care should address the safeguarding of young witnesses at court, in particular:

- issues concerning the physical environment at court;
- the identification of a supporter to provide emotional support to young witnesses while giving evidence;
- the use of remote TV links;
- the identification of communication difficulties and assessments of whether questions are appropriate to the age and capacity of witnesses.

The list of statutory Special Measures should be expanded to include the appointment of a named supporter to accompany a young or vulnerable witness while giving evidence, for the purpose of emotional support.

Strengthening Local Criminal Justice Board accountability

The only two Boards in the study which mentioned young witnesses in their plans were those which had direct young witness scheme representation at subcommittee level. The Office for Criminal Justice Reform sets overall priorities and targets for Local Criminal Justice Boards, including the Victim and Witness Delivery Plan. Boards have not been required to distinguish young witness issues in these and other initiatives.

In the 'Every Witness Matters: Employee Handbook', Her Majesty's Courts Service recommended the development of a local protocol 'outlining the roles and responsibilities of all agencies in respect of the support that children/ young people may need in order for them to give best evidence' (2005). Only three of the young witness schemes in this study were party to a protocol to which courts were a signatory; only one of these protocols had been endorsed by the relevant Local Criminal Justice Board subcommittee. Such a protocol is helpful in addressing the respective responsibilities of the court-based Witness Service and young witness support scheme: in some areas they collaborated closely whereas in others there was little contact (lack of continuity of the supporter from pretrial preparation through to the day of trial was an issue in some study cases).

The model young witness support plan requires the accountability of Local Criminal Justice Boards for young witness services to be strengthened. Boards should:

- ensure that relevant Board subcommittees obtain input from young witness support schemes, including feedback about the experience of young witnesses;
- collect statistics about the number of young witnesses in their area who make witness statements and the proportion called to give evidence, attend court and testify;
- map existing services targeted to young witnesses in their criminal justice area, and assess the effectiveness of referral to young witness support scheme(s);
- review case management and listing practice (for example, where a young witness is scheduled to give evidence with a 'clean start' in the morning, whether other matters are put into the judge's list first, almost inevitably delaying the start of the child's evidence) in young witness cases and monitor the time to disposal, in light of numerous policy commitments and because pretrial delay is a major element of system-induced stress;
- use the findings to develop a protocol 'outlining the roles and responsibilities of all agencies in respect of the support that children/ young people may need in order for them to give best evidence' as recommended by Her Majesty's Courts Service in the 'Every Witness Matters: Employee Handbook' (2005);
- use Board-sponsored training and other events to raise the profile of young witness support with criminal justice personnel and members of the public, in light of the government's objective to raise public confidence in the criminal justice system. This could be tied to events raising awareness of children's eligibility for the intermediary Special Measure (section 29, Youth Justice and Criminal Evidence Act, 1999).

Forging links between Local Criminal Justice Boards and Local Safeguarding Children Boards

'Working Together to Safeguard Children' sets out the statutory members of Local Safeguarding Children Boards which include the police, local authority children's social care, health organisations and youth offending teams (Department for Education and Skills, 2006, para 3.58). The local authority is expected to link to other relevant organisations (including the Crown Prosecution Service, Local Criminal Justice Board and witness support services), either through inviting them to join the Board, or through some other mechanism (para 3.63).

The young witness support model should encourage the forging of links between Local Criminal Justice Boards and Local Safeguarding Children's Boards, as recommended by 'Working Together to Safeguard Children'.

Inter-agency protocols

In October 2005, the Office for Criminal Justice Reform issued a model Memorandum of Understanding to be agreed by each Local Criminal Justice Board and local Victim Support charity, as part of the Board's commitment to the Victim and Witness Delivery Plan. This is a broad strategic agreement about the different and complementary roles of the two bodies. As yet, there is no equivalent model to govern the relationships of Boards and other providers of witness services. This is needed to formalise the relationship between individual Boards and young witness support schemes in their area.

The study identified some potential overlap between the responsibilities of young witness support schemes and local Witness Care Units, for example relating to assessment of young witness needs.¹⁴⁶ Each scheme had to negotiate working arrangements and divisions of responsibility. The need for clarifying guidance has already been acknowledged in respect of the Witness Service. As a result of the 'No Witness No Justice' project, the Office for Criminal Justice Reform developed a Witness Care Unit and Witness Service protocol issued in 2006, with the aim of drawing clear boundaries between the two organisations. Issues addressed include referral service standards. Such a model would provide a useful template for Witness Care Unit relationships with providers of young witness support. Some criminal justice practitioners suggested that it would be helpful to have a designated young witness specialist within each Witness Care Unit.

As part of the consultation on the young witness support model, the Office for Criminal Justice Reform should develop a model protocol governing the relationship of young witness schemes with Local Criminal Justice Boards and one governing the relationship with Witness Care Units.

¹⁴⁶ The Common Assessment Framework, which looks at the wider needs of children, should also be taken into account in guidance about allocation of police and support scheme responsibilities:
<http://www.everychildmatters.gov.uk/caf/>.

Appendix 1. Information about study participants

Table A1.1 Young witnesses referred for interview by area

Area	Scheme-supported group	Comparison group
A	21	2
B	21	7
C	16	5
D	17	14
E	17	8
F	18	5
Total	110	41

Table A1.2 Gender of witnesses referred to the study

	Scheme-supported group		Comparison group		Total	
	No.	%	No.	%	No.	%
Female	77	70	24	59	101	67
Male	33	30	17	41	50	33
Total	110	100	41	100	151	100

Table A1.3 Ages of witnesses referred to the study

	Scheme-supported group	Comparison group	Total
Minimum	5	8	5
Maximum	17	17	17
Mean	13.4	14.1	13.6

Table A1.4 Type of court (for those young witnesses who gave evidence)

Court	Scheme-supported group		Comparison group	
	No.	%	No.	%
Crown	50	60	6	22
Magistrates'	16	19	13	48
Youth	18	21	8	30
Total	84	100	27	100

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Table A1.5 Types of offence witnessed by those referred to the study

Offence type	Scheme-supported group		Comparison group	
	No.	%	No.	%
Sexual	54	49	8	20
Violent	44	40	22	54
Other	12	11	10	24
Unknown	0	0	1	2
Total	110	100	41	100

Table A1.6 Face-to-face interviews with CJS personnel

Interviewees	No.	%
Support scheme personnel	18	24
Judges at 10 Crown Court centres	14	19
Crown Court personnel (managers, ushers, witness liaison officers, listing officers, Witness Service)	28	37
Other CJS personnel	15	20
Total	75	100

Table A1.7 Focus group participants

Agency	No.	%
CPS	37	52
Police	34	48
TOTAL	71	100

Table A1.8 Responses to surveys

Group surveyed	No.	%
Supporters	68	31
Solicitors and barristers	36	16
Circuit judges	19	9
Magistrates	52	24
District judges	3	1
Magistrates' court staff	15	7
Witness Service Managers	11	5
Police	12	5
CPS	5	2
Total	221	100

The number of police and CPS survey responses was low but they boosted police and CPS input in areas where focus group attendance was smaller than anticipated.

Table A1.9 Supporters per scheme, status and response to survey

Scheme	Number of supporters	Status	Number of questionnaires distributed (approximate)	Number of survey responses	Response rate (approximate)
A	20	Employed by local authority	20	13	65%
B	106	Employed by ACPC members, plus one Victim Support volunteer	25	17	68%
C	28	Volunteers	25	20	80%
D	59	Volunteers	25	11	44%
E	5	Employed by NSPCC	5	5	100%
F	18	Volunteers (family support)	10	1	10%
F	1	Employed by NSPCC	1	1	100%
Total	237		111	68	61%

This is the largest survey of young witness supporters to date in England and Wales, but was confined to the six schemes in the evaluation. Even for these, the survey did not include all young witness supporters in each fieldwork area. Scheme coordinators sent out up to 25 questionnaires per scheme, with a response rate of approximately 61 per cent.

Appendix 2. Existing Standards and policies and proposed additions

The tables below sets out existing Standards for assessment and support of young witnesses and suggested additions based on findings from the study. The term 'supporter' is used to refer to both the supporter and the support scheme.

Table A2.1 Existing Standards for assessment and proposed additions

<i>Objective</i>	Existing Standard	Proposed additions
<i>Assessing young witnesses and passing on information to criminal justice personnel</i>	<p>Police to conduct an initial needs assessment as part of the statement (Witness Charter consultation, Standard 4)</p> <p>Witness Care Unit to conduct a full needs assessment (Standard 10, Criminal Justice System, 2005)</p> <p>CPS to:</p> <p>take seriously any assessment about a child's needs</p> <p>be sure that a child can understand any questions asked and can give understandable replies</p> <p>ask judiciary to ensure that children can easily understand the questions asked and that words used match the age and abilities of the child (paras 4.6, 4.7, 4.24, CPS, 2005)</p> <p>understand the different ways to treat them respecting different backgrounds and cultures; ensure each child is treated in a way that respects his or her needs; find out about extra help they may need; listen carefully to what they say about going to court; where defendants plead not guilty, Witness Care Officers will conduct a full 'needs assessment' to identify children's needs or worries. This information will be used to assist them give their best evidence (CPS policy, children and young people)</p>	<p>Supporter to:</p> <p>assess witness needs and wishes throughout the pretrial period as these may change</p> <p>seek information about the witness not only from parent/ carer and police but also from other organisations as appropriate, subject to necessary consents being obtained</p> <p>notify police, CPS and/ or Witness Care Unit about witness needs, wishes, vulnerability and concerns about giving evidence and inform them if the witness appears reluctant to attend trial</p> <p>inform the police if the witness wishes to discuss his or her evidence</p> <p>notify the police and CPS if witness may have a communication need while giving evidence</p>

Table A2.2 Existing Standards for support and proposed additions

<i>Objective</i>	Existing Standard	Proposed additions
<i>Assisting young witnesses to give best evidence by helping them to understand</i>	<p>Supporter to:</p> <p>help young witnesses to feel more confident and better equipped to</p>	<p>Supporter to:</p> <p>develop a tailored preparation and support programme, based on</p>

<i>Objective</i>	<i>Existing Standard</i>	<i>Proposed additions</i>
<i>the court process and their role in it</i>	<p>give evidence</p> <p>understand the legal process and their role within it</p> <p>encourage them to share their fears and apprehensions about the court process</p> <p>explain the roles of case participants, importance of telling the truth and nature of cross-examination</p> <p>prepare them for trial outcomes</p> <p>not rehearse or coach the witness (National Standards for Young Witness Preparation)</p> <p>make sure they are well supported and able to give their evidence in court with as little stress and anxiety as possible; try to ensure that they are able to understand questions and give replies that can be understood (CPS policy, children and young people)</p>	<p>assessment of witness needs</p> <p>engage the witness's active participation in preparation for court</p> <p>use non-evidential 'Q & A' scenarios for different age ranges and abilities, approved by the CPS, to encourage the witness to practise the rules about questioning at court</p>
<i>Involving the parent or carer</i>	<p>Supporter to involve the young person's parent or carer (National Standards for Young Witness Preparation)</p>	<p>Supporter to address the needs for support of the parent or carer (within the support scheme or referred on)</p>
<i>Offering a home visit by the supporter</i>		<p>Supporter to offer one or more home visits as an integral part of the preparation programme. Schemes to develop guidance on risk assessment in relation to home visits.</p>
<i>Offering a court familiarisation visit before the trial, accompanied by the supporter</i>	<p>Supporter to arrange a familiarisation visit and ensure that young witness and parent or carer are shown Special Measures (National Standards for Young Witness Preparation)</p> <p>CPS can arrange for young witnesses to visit the court in advance and see how TV link works (para 4.17, CPS, 2005)</p> <p>It is good practice to allow vulnerable witnesses to practise on TV link at familiarisation visit (Standard 17, Criminal Justice System, 2005)</p>	<p>Supporter to:</p> <p>offer a court familiarisation visit as an integral part of the preparation programme; more than one visit may be appropriate, depending on witness needs</p> <p>ensure that transportation is arranged for the young witness and parent carer if necessary</p> <p>ensure there is a demonstration of TV link/ screens in court, as appropriate</p>

<i>Objective</i>	<i>Existing Standard</i>	<i>Proposed additions</i>
	<p>Police, CPS, Witness Care Unit, defence lawyer or Witness Service to explain Special Measures and seek witness views (Standards 4 and 10, Criminal Justice System, 2005)</p> <p>Children can visit the court before the trial, meet the supporter and see how the TV link equipment works (CPS policy, children and young people)</p>	<p>accompany the young witness on familiarisation visits to ensure continuity of support and as part of assessing the witness's needs, understanding of the court process and views about Special Measures</p>
<i>Providing and explaining the Young Witness Pack</i>	<p>Supporter to give witness and parent/ carer Young Witness Pack materials and, if appropriate, show them the Young Witness video or DVD (National Standards for Young Witness Preparation)</p> <p>The Pack should be given and explained by the person preparing the child for court (Standard 15, Criminal Justice System, 2005)</p> <p>Witness Care Unit to ensure that victims under 17 and their parent/ carer are given relevant Pack materials (para 6.6, Office for Criminal Justice Reform, 2005)</p>	<p>Supporter to:</p> <p>select materials appropriate to the young person's level of understanding and type of case</p> <p>assist witness in going through materials and respond to questions</p>
<i>Ensuring the young witness and parent/ carer have someone to contact if they have questions</i>	<p>Police will give witnesses a name and contact details (Standard 6, Criminal Justice System, 2005)</p> <p>Child witnesses will be kept informed about the progress of the case. Each will have his or her own Witness Care Officer who will organise help and support (CPS policy, children and young people)</p>	<p>Supporter to ensure that witness and parent/ carer have a phone number to call if questions or concerns arise</p>
<i>Giving young witness cases priority</i>	<p>Young witness cases should be given priority</p> <p>(Standard 13, Criminal Justice System, 2005; para 4.3, CPS, 2005; p. 110, Her Majesty's Court Service, 2005; Introduction, Department for Constitutional Affairs, 2005 ; CPS, 2006)</p>	<p>Supporter to:</p> <p>pass on information about impact of delay on young witness and point out policy commitment to give priority</p>
<i>Ensuring that the witness sees video evidence-in-chief or written statement before trial, for the purpose of refreshing memory</i>	<p>All witnesses are entitled to see their statement before the trial. This is the responsibility of the police to arrange (paras 4.33, 4.36, Home Office <i>et al.</i>, 2002)</p> <p>The Witness Care Officer will arrange this with the police and</p>	<p>Supporter to:</p> <p>liaise with the police and Witness Care Unit to ensure that refreshing occurs before the trial</p> <p>advise young witnesses and</p>

Objective	Existing Standard	Proposed additions
	<p>supporter. This should happen before the day of trial. Children will see the edited video or statement so that they are not taken by surprise at trial (CPS policy, children and young people)</p>	<p>their parents or carers of this entitlement</p>
<p><i>Ensuring that witness waiting time at court is kept to a minimum</i></p>	<p>Young witnesses in Crown Court to attend court in a.m. of second day of trial to reduce delay and allow them to give evidence when they are fresh. Witnesses should not have to wait for more than two hours before giving evidence (Standards 14 and 24, Criminal Justice System, 2005))</p> <p>Vulnerable witnesses may be able to wait near court until they are needed to give evidence (Standard 23, Criminal Justice System, 2005)</p> <p>Court staff to:</p> <p>have a range of standby arrangements</p> <p>liaise with the (Child) Witness Service and provide a named contact re familiarisation visits, separate waiting facilities with refreshments and activities, use of a discrete entrance to the building and use of a TV link room that is 'not too cramped'</p> <p>check that young prosecution and defence witnesses have access to pretrial support and at trial, especially in TV link room (Every Witness Matters: Employee Handbook)</p> <p>Supporter to co-ordinate arrangements with court liaison officer or Witness Service to ensure that waiting time at court is minimised (National Standards for Young Witness Preparation)</p>	<p>Young witness service to liaise with CPS, police and court (witness liaison officer/ listing officer) about:</p> <p>the schedule for the witness's evidence, including standby arrangements</p> <p>entry to and exit from the court building; access to a secure waiting area and toilet facilities; lunch and refreshments; arrangements for groups of young witnesses</p> <p>support of any parent or carer accompanying the witness</p> <p>Support schemes and courts to liaise to agree premises for standby arrangements</p>
<p><i>Ensuring that witness meets the advocates</i></p>	<p>It is the barrister's responsibility to put nervous or vulnerable witnesses as much at ease as possible (para 6.1.4, General Council of the Bar 'Written Standards for the Conduct of Professional Work')</p> <p>lawyer should introduce themselves at trial and try to answer witness's questions (Standard 22, Criminal Justice System, 2005)</p>	

Objective	Existing Standard	Proposed additions
	<p>young witnesses may be able to meet the lawyer who will deal with their case in court (para 4.17, CPS, 2005)</p> <p>a CPS representative will ensure young witnesses speak to the prosecution advocate before trial, by TV link if giving evidence from a remote site (CPS policy, children and young people)</p>	
<p><i>Helping the witness deal with stress and anxiety management, and make parent/ carer aware of policy on pretrial therapy</i></p>	<p>Supporter to help witness with stress reduction techniques (National Standards for Young Witness Preparation)</p> <p>CPS will not deny a child's right to pretrial therapy but may not prosecute where the type of therapy used could have an effect on the child's evidence (para 4.4, CPS, 2006)</p> <p>Child's best interests are paramount when deciding whether, and in what form, therapeutic help is given (Provision of Therapy for Child Witnesses Prior to a Criminal Trial)</p>	<p>Supporter to:</p> <p>be familiar with techniques on stress reduction and anxiety management and identify techniques appropriate to the young person's needs</p> <p>explain policy to parent/ carer regarding pretrial therapy</p> <p>advise parent/ carer of local sources of therapeutic support</p>
<p><i>Providing continuity of support through to trial</i></p>	<p>Willingness and ability to offer continuity of support throughout the trial as key characteristics of the young witness supporter (National Standards for Young Witness Preparation)</p> <p>On a visit to the court before the trial, the child can meet a trained young witness supporter (approved to work with children) who will be with them at the trial. The supporter can be there when the child gives evidence but the court makes the final decision (CPS policy, children and young people)</p>	<p>Supporter to:</p> <p>attend court with the witness on the day of trial wherever possible, or identify alternative supporter who meets child before the day of trial</p> <p>assess whether the witness would benefit from emotional support while giving evidence; discuss this with the witness and CPS</p> <p>ensure that transportation is arranged for the young witness and parent carer if necessary</p>
<p><i>Offering post-trial contact</i></p>	<p>Supporter to debrief witness and parent/ carer when case is over and arrange for any follow-up support, including specialist help (National Standards for Young Witness Preparation)</p> <p>CPS to make sure that each victim and witness knows and understands the result of the case as soon as</p>	<p>Supporter to:</p> <p>ensure that responsibility is clear about who will inform the witness and parent/ carer of case result</p> <p>advise witness and parent/ carer of option of meeting CPS prosecutor where CPS offers no evidence or</p>

<i>Objective</i>	Existing Standard	Proposed additions
	<p>possible after it finishes (para 3.18, CPS, 2005)</p> <p>CPS to offer to meet victims of child abuse and sex offences to explain decision to drop or substantially alter charges. If prosecutor decides not to meet, reason must be recorded (paras 7.6, 7.7, Office for Criminal Justice Reform, 2005)</p> <p>Witness Care Officer will offer support after the case and say 'thank you' (CPS policy, children and young people)</p> <p>Witness Service to offer opportunity to talk over the case when it is ended. If further help is needed, Witness Care Unit or Witness Service to refer witness to relevant support agencies where available (Standard 32, Criminal Justice System, 2005)</p>	substantially alters charges in appropriate cases
<i>Informing witness and parent/ carer about criminal injuries compensation</i>	Victim Support/ Witness Service to inform victims about their entitlement to criminal injuries compensation and offer help to fill in the correct form (Victim Support's national standards)	Supporter to provide advice at the end of the case about criminal injuries compensation, where this is appropriate to the circumstances of the offence

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