Criminal Justice Joint Inspection
Arolygiad ar y Cyd Cyfiawnder Troseddol

Joint Inspection of the Young Witness Protocol

Terms of Reference

Background

HM Crown Prosecution Service Inspectorate (HMCPSI) and HM Inspectorate of Constabulary and Fire & Rescue Service (HMICFRS) are preparing to conduct a joint thematic inspection of how well the police, the Crown Prosecution Service (CPS) and His Majesty's Courts & Tribunal Service (HMCTS) expedite cases involving witnesses aged under ten years in accordance with the 2015 Young Witness Protocol (YWP)[1].

The YWP applies to cases charged on or after 1 April 2015 where:

a. a witness is under the age of ten at the time an incident is reported to the police, and
b. the witness under ten has provided an evidential statement or interview in relation to the incident, either in support of the prosecution or the defence.

There is some overlap between the YWP, and section 28 of the Youth Justice and Criminal Evidence Act 1999. Although the YWP ceases to apply once a judge directs that a witness's evidence be taken under the section 28 procedure, this inspection will include such cases where they initially fell within the scope of the YWP. This reflects the expectation that relevant agencies comply with the protocol up to the point at which a section 28 direction is made.

The inspection question

How well do the police, the CPS and HMCTS expedite cases involving witnesses aged under ten years in accordance with the 2015 Young Witness Protocol?

Inspection aims

The inspection aims to answer the following questions (and sub questions leading on from those questions) with reference to relevant criteria:

[1] police-cps-hmcts-ywi-protocol-2018.pdf

Investigation

1. Do the police handle cases involving young witnesses in accordance with the YWP?

- Do the police correctly identify cases in which the YWP applies and flag those cases to the CPS?
- Do police supervisors ensure that appropriate action plans are produced, detailing the actions necessary to expedite the investigation to a charging decision?
- Are the police correctly identifying where an intermediary is required to assist communication with the witness and, where required, taking action to ensure a registered intermediary is appointed prior to the witness being interviewed?
- Are the police considering the need for early consultation with the CPS in cases involving witnesses under ten years old?
- Do the police properly consider and identify relevant third-party material prior to the decision to charge?
- Are the police providing a request for a charging decision to the CPS in a timely manner, with a file that complies with the National File Standard and includes a visually recorded interview of the young witness with a written summary of that interview, and details of any requirement for special measures for the witness?

Charging

2. Does the CPS handle charging expeditiously in cases involving young witnesses?

- Are charging advices provided by prosecutors to the police within seven days of receipt of files, containing Action Plans where additional or outstanding work is required from the police?
- Once the CPS has received a full file or a response to an Action Plan, are any subsequent advice or actions provided within seven days of receipt?
- Do prosecutors record on the MG3 (charging advice) whether there is an intention to apply for the use of Section 28, where available?
- Where the Full Code Test is applied, do the police and CPS ensure that the time period between first complaint and charge does not exceed eight weeks (four weeks where the Threshold Test is applied) or where this is not possible, that the time from investigation to charge is kept to a minimum?

Case preparation and review

3. How effectively do the police, CPS and HMCTS ensure that an effective first hearing takes place in all YWP cases?

- Where a defendant is charged, do the police arrange for the defendant to appear at the magistrates' court within seven days of the date of charge?
- Where a defendant is summonsed or requisitioned is the hearing date chosen to minimise any delay in proceedings?

- Do the police provide a file which is compliant with the National File Standards to the CPS no later than 48 hours before the first hearing?
- At the first hearing, does the prosecutor confirm that the court is aware that the matter is a YWP case?
- Does HMCTS ensure that trials for YWP cases are given a category status of "High" to ensure the trial will take priority on the day?
- Do the police provide additional material for a contested hearing to the CPS within three weeks of the first hearing?
- Does the CPS serve its case within 35 days of the first hearing?

Magistrates' courts cases

4. Do magistrates' courts effectively prioritise cases falling under the YWP?

- Are pleas entered at first appearance where possible?
- Is a provisional trial date set no more than eight weeks from the date of plea?
- Do Magistrates' courts deal with any applications, such as for special measures or bad character, at the first appearance where possible?

Crown Court cases

5. Does the Crown Court deal effectively with cases falling under the YWP?

- Does the Plea and Trial Preparation Hearing (PTPH) take place within 14 days of the case being sent to the Crown Court?
- If the matter proceeds to trial, is the trial date set no more than eight weeks from the date of plea unless exceptional circumstances apply?

Police force/CPS Area

We will review files and interview relevant individuals from the three selected CPS Areas and corresponding police forces and courts. These Areas have been selected on the basis they represent a spread of geographical Areas and a number of cases that were progressed under the Young Witness Protocol. The selected Areas are as follows:

CPS Area	Police force
Yorkshire and Humberside	West Yorkshire
Wales	South Wales
West Midlands	West Midlands

Inspection methodology

The inspection will examine 21 case files in which the YWP was engaged, including cases prosecuted in both the magistrates' courts and the Crown Court.

The inspection will also include a number of interviews of police leads, CPS leads and HMCTS leads in each of the four geographic CPS Areas and relevant police forces selected.

We will also conduct National Interviews with the YWP leads for police, CPS and HMCTS, and interviews with the Victims' Commissioner and the Children's Commissioner for England.

Proposed inspection timetable

The inspection will commence mid-October, and we plan to publish the inspection report in Spring 2027.

Criminal Justice Joint Inspectorates – Supporting democratic accountability, local transparency and the drive to reduce bureaucracy