



Leicestershire Police

Dealing with Vulnerable and Intimidated Witnesses and Victims Policy

Procedure Owner:	Team Leicestershire Academy DCI
Department Responsible:	Crime and Intelligence Directorate
Chief Officer Approval:	ACC Crime
Protective Marking:	Restricted
Date of Next Review:	August 2026

This procedure has been reviewed against APP.

Moved to APP:	Partially moved to APP
Rationale:	Local information is required

This document has been produced in conjunction with the Leicestershire Police Legislative Compliance Pack

Date	Minor / Major / No change	Section	Author
Aug 2002	Live		Carolyn Woods
Oct 2009			Joanna Compton
Feb 2011	Minor	4,5,6,7	Kev Swain
Nov 2012	Minor	6, 14	A D Linville-Sibley
Jan 2013	Minor	App D / E	T/DS 952 Flynn
Feb 2014	Minor change	10	DI Fletcher
Feb 2015		Front page	
Feb 2016	Reviewed with no change and not yet fully on APP		PC 1562 Kev Love
September 2017	Reviewed with no change and not yet full on APP		8137 Barney Thorne
Sept 2018	Minor	12.3, 13.1	Amy Linville-Sibley Regional WCU Manager
August 2020	Major	Partial move to APP	DS 4178 Russell/DI Main
August 2021	Minor	1.2,3.2,4.2, add sec 5. Combine policy and procedure docs	D/Supt 1079 Baker
October 2022	Minor	Scope ABE 2022 DA Act 2022 SM Witness criteria	DCI 517 Lindley / DS4170 King
August 2024	Minor	Special Measures website links	D/Insp 4472 Wood

POLICY

Statement

Leicestershire Police fully endorses the principle of supporting all victims and witnesses, particularly those who are vulnerable or intimidated, to enable them to gain access to the criminal justice system. This policy aims to make the best use of our available resources by promoting a full and proper assessment of individual vulnerable and intimidated witnesses, and together with other agencies, provide a service to the individual that enhances their ability to access and remain in the criminal justice process. This will ultimately greatly increase their ability to attend and give evidence at court when necessary.

Aims

The aim of this policy and the supporting procedure is to ensure all officers comply with the legislative requirements of Part II of the Youth Justice and Criminal Evidence Act 1999. Part II relates to the provision of Special Measures at court and before court (i.e., at the start of the investigative process) that allow vulnerable and intimidated victims and witnesses of criminal offences, to enhance the quality of their evidence, and outlines how such witnesses may also be supported throughout the criminal justice process.

Scope

This Policy and the supporting procedure outline the Special Measures introduced to support vulnerable victims and witnesses (as classified under S.16 of the Youth Justice and Criminal Evidence Act 1999) and intimidated victims or witnesses (as classified under S.17 of the Youth Justice and Criminal Evidence Act 1999) also Coroners & Justice Act 2009, and Domestic Abuse Act 2021.

The Special Measures available are:

- Screening the witness from the accused so that the witness does not have to see them (section 23);
- Giving evidence by way of live TV link (section 24);
- Giving evidence in private (section 25) (limited to sexual offences, offences contrary to sections 1 and 2 of the Modern Slavery Act 2015 and offences involving intimidation. Victims of offences involving domestic abuse will also be eligible when section 62 of the Domestic Abuse Act 2021 comes into force);
- The removal of wigs and gowns (section 26);
- The use of video recorded interviews as evidence-in-chief (section 27);
- Video-recorded cross-examination (section 28) (available in all crown courts in England and Wales for section 16 Youth Justice and Criminal Evidence Act

“vulnerable” witnesses. Also commenced for adult complainants to sexual offences and offences contrary to section 1 or section 2, Modern Slavery Act, 2015 in the crown courts at Durham, Harrow, Isleworth, Kingston-upon-Thames, Leeds, Liverpool and Wood Green, with commencement to all crown courts planned).

Vulnerable witnesses are also eligible for the following special measures:

- Communication through intermediaries (section 29); and
- The use of special communication aids (section 30).

Timescales for implementation of the Special Measures were outlined in a series of Home Office and Ministry of Justice circulars commencing in July 2002. However, the phased implementation has been superseded by the case R V Rochester which states that the special measures outlined (with the exception of Video recorded cross-examination or re-examination) have been available for all vulnerable and intimidated witnesses in both magistrates’ and crown courts throughout England and Wales since 2002.

While this includes Section 27, NPCC have sought legal advice from the Ministry of Justice with a view to developing guidance intended to limit the range of cases in which a video-recorded interview is conducted for the purposes of evidence-in-chief. Pending this advice, video-recorded interviews with vulnerable and intimidated witnesses should only be considered in the following cases:

- Any offence likely to be tried in the crown court where the witness is ‘vulnerable’ as defined in Section 16;
- Any sexual / violent / Gun / Knife offence likely to be tried in the magistrates’ or youth court where the witness is under 18;
- Any offence likely to be tried in the magistrates’ or youth court where the witness has a disorder or disability that has a significant effect on their ability to communicate;
- Any sexual offence likely to be tried in the crown court where the witness is the complainant; and offences under sections 1 or 2 of the Modern Slavery Act 2015.
- Any crime that falls within the remit of Leicestershire’s Major Investigation Team in which the witness both ‘significant’ as defined in paragraph 1.25 of Achieving Best Evidence and ‘intimidated’ as defined in paragraph 1.10 of Achieving Best Evidence (or Section 17 of the Act).

In addition, the amended Youth Justice and Criminal Evidence Act 1999 (YJCE Act 99) introduces a provision to extend video recorded interview under section 27 & 28 to victims of domestic abuse irrespective of any other qualifying category they may fall into. At the time of review this part of the act has been paused for further consultation to agree guidance to appropriately apply the provision in a way that is reasonable and that meets the ability of the police service to meet demand.

Witnesses in other cases involving intimidation should only be video-recorded for the purposes of evidence-in-chief with the authority of a Detective Chief Inspector.

Legal Basis

In order to take forward the Government's commitment to improve protection for vulnerable or intimidated witnesses, in 1998, the Home Office published 'Speaking Up for Justice', the report of an Interdepartmental Working Group on the treatment of vulnerable or intimidated witnesses, including children in the criminal justice system. The report recommended extending the existing special measures introduced for child witnesses (live CCTV links and video-recorded evidence-in-chief) to vulnerable or intimidated witnesses and victims, together with a range of other measures from the investigation stage, through to the trial and beyond. Provisions to implement those recommendations requiring legislation were included in Part II of the 1999 Youth Justice and Criminal Evidence Act 1999.

Guidance on the application of special measures and, in particular, conducting video and non-video interviews of witnesses and victims, is contained within the document 'Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable and Intimidated Witnesses, including Children' *The first edition of this guidance (Home Office 2002) replaced 'The Memorandum of Good Practice on Video Recorded Interviews with Child Witnesses for Criminal Proceedings (Home Office 1992)'. The second edition, Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, and Using Special Measures' (Office for Criminal Justice Reform 2007) built on and extended the guidance set out in the first edition.*

This policy and supporting procedure also take account of requirements under the following legislation; Data Protection Act 1998 Freedom of Information Act 2000, and Sex Discrimination Act 1976, Disability Discrimination Act 1995, Sex Discrimination (gender Reassignment) Regulations 1999, Human Rights Act 1998. It is suitable for public disclosure.

Monitoring

This policy and the associated procedure will be closely monitored to ensure it is operating properly and that the information is kept up to date.