

## **NSPCC Policy Summary Young Witness Support**

### **Objective**

Every child witness who has to go through our criminal justice system must be given the support they need to ensure that they can give their best possible evidence. This in turn will help protect them from further harm and ensure that justice is done.

It is an ordeal for a child who has suffered abuse to stand up publicly and give intimate details in front of strangers. By giving every child witness the best possible chance of telling what happened, crimes against children, young people and others are more likely to be prosecuted and criminals brought to justice. Young Witness Preparation and Support Services help keep children safe, thus contributing to the Every Child Matters outcomes for children and young people.

### **Children's Rights**

The United Nations Convention on the Rights of The Child (1989) protects fundamental rights to which children are entitled and which States parties must ensure they take measures to realise and to safeguard. There are important references to children in the court system in the UN Convention on the Rights of the Child which include:

- Article 3. 1            In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
  
- Article 12.1           States parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
  
- Article 12. 2           For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceeding affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with procedural rules of natural law.

### **Key points**

The NSPCC recognises that all witnesses receive a basic level of support from the court service, but children need much more support than is usually provided.

Our experience of working with children who have been abused informs us that the trauma in the aftermath of abuse goes far beyond the physical. Emotionally these children are often tormented by their memories of abuse and changes in their behaviour can be indicative of internal anger and

emotional upset, and this is often misunderstood by adults. In addition, we see children failing to achieve their potential and sometimes behaving anti-socially. Their concentration can be affected and children can fall behind in their school work. This leads not only to frustration on their part but also to challenges for those living and working with them and costs to the system which needs to provide additional resources to support children affected in this way.

The NSPCC's experience of supporting young witnesses tells us that without support services there are significant impacts on the child, the offender and society as a whole.

Young witness support services aim to:

- Reduce the stress experienced by children and young people who may have to give evidence in court.
- Prevent further trauma that may be caused by their experience of the court and legal processes.
- Ensure, where possible, that the needs of young witnesses in general are given full and appropriate attention by the criminal justice system and professionals working in that system.

### **Background**

According to Witness Service statistics, around 29,000 children in the UK are required to give evidence in court each year. For some, the unfamiliar court setting and complex procedures are combined with the stress and trauma of facing their abuser. This can be increasingly distressing, as they also have to describe the personal details of abuse in front of strangers. All children should therefore receive individual support throughout the court process to reduce their trauma and help them give their best possible evidence. It is a 'postcode lottery' as to what support they will receive.

The Youth Justice and Criminal Evidence Act 1999 requires courts to take account of witnesses' views about giving evidence. Research conducted in 2004 by the NSPCC and Victim Support '*In Their Own Words*',<sup>1</sup> revealed for the first time how children feel about going to court. It described the experiences of 50 young witnesses aged between seven and seventeen giving evidence in criminal court proceedings – most in sexual offences cases.

This report found that:

- On average, child witnesses waited for almost a year (11.6 months) before the trial, despite longstanding Government policy to give priority to child abuse or child witness cases.
- When their cases did reach court, half of the child witnesses did not understand the words or phrases being used in court. Just under half said that they had been accused of lying – sometimes more than once.

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<sup>1</sup> *In their own words: The experiences of 50 young witnesses in criminal proceedings*, Plotnikoff and Woolfson, NSPCC and Victim Support, 2004.

- More than half were very upset, distressed or angry when in court. A fifth of respondents said they were crying, feeling sick or sweating.

The response to this research when it was published indicated that these experiences are indicative of young witnesses' experiences as a whole throughout the country.

Moreover, as these accounts are from those receiving higher levels of support through the court process from young witness services, it is likely that experiences are even worse than this for many more children.

### **Child Protection issues**

Unless young witnesses are able to give evidence effectively and fairly, children will continue to suffer intense distress in court, and more children will be left vulnerable to abuse in the future at the hands of those offenders who have walked free.

Young witnesses are among the most vulnerable children in the UK; 56 per cent of young witnesses supported by the NSPCC are the direct victim of an offence, and over half of these cases concern sexual abuse<sup>2</sup>. Suffering child abuse and then having to speak publicly about the experience is an ordeal for a young witness. In fact, some children say that appearing as a witness in court is as traumatic as the abuse they have suffered.

Young Witness Support and Preparation Services provide children and young people with the best possible chance of giving their full evidence. The NSPCC's experience shows that nearly all young witnesses are able to give evidence fully and calmly if they have the right preparation and support.

### **Policy implementation**

Much has been done to develop appropriate legislation and policy for young witnesses; however, there are huge gaps in its implementation and young witnesses continue to suffer.

The *'In Their Own Words'* research highlighted many failings within the criminal justice system that have still to be addressed. In almost all respects, the current process lets these children and young people down. Despite a network of policies and procedures intended to facilitate children's evidence, only a handful of young witnesses gave evidence in anything approaching the optimum circumstances. Their experiences reveal a chasm – an implementation gap – between policy objectives and actual delivery around the country.

In addition to providing a national network of young witness support services, the process of children giving evidence in court needs to be improved further. The needs of children in the court system must be considered as part of the cultural change envisioned by the Every Child Matters Programme. This needs to include training the judiciary and lawyers to understand the impact of

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<sup>2</sup> NSPCC Briefing Document- *Supporting Every Child Through Court*, 2004.

working with children, as highlighted in the *'In Their Own Words'* research. The Judicial Studies Board, the Bar Council and The Law Society currently provide some vulnerable witness training but it is not comprehensive, and is not widely shared to encourage others to replicate this good practice.

## **NSPCC Child Witness Case Study Recommendations**

Julia was eight years old when she was abused and nine years old when she told. She said, 'he put his privates in my privates'; the charge was rape. Julia started giving evidence at the first trial three days before her 11th birthday. She had made a written statement to the police so she had to give all her evidence over the TV link. She did it, but the trial could not go on, as there was a legal argument about witnesses.

Julia had given evidence over two days. She was exhausted after the first day and cried because she was asked the same questions over and over again. She said the defence lawyer was shouting at her. Julia saw her abuser on the TV link but did not know that she could have told the judge. She was accompanied in the TV link room by someone from the Court she didn't know. Nobody knew that she suffered from asthma.

A new trial was arranged for four months later. Julia and her parents were reluctant to go through such a traumatic and demanding experience again. There was no Child Witness Service at the first trial but Julia and her parents were introduced to an NSPCC child witness supporter before the second trial and decided to proceed.

The child witness supporter helped Julia understand more about the court. She gave Julia her own copy of the Young Witness Pack and, through play with the pop-up courtroom, helped her understand better her first experience in court. Julia was able to act out the roles of those present at the first trial. She learnt that she could ask for questions to be repeated if she didn't understand or for a break if she wanted to go to the loo or was hungry.

Although Julia had been to court she had not seen inside the courtroom. The supporter organised a visit before the second trial, to show Julia where everyone would sit, where she would wait, and where she would give evidence. She talked to Julia about her concerns and gave the court information about her asthma. The second trial did not go ahead as planned either. A witness had a long-term illness and Julia came to court on the second day only to be sent home again.

The third trial started a year or so after the first, three years since the abuse, just after Julia's 12th birthday. Although she felt more confident, giving evidence was tough. She couldn't remember details as the abuse had been so long ago and she didn't always understand the questions. Again she was accompanied in the TV room by someone she hadn't met before. During lunch she couldn't see her mum or someone she knew. The defendant pleaded guilty to a lesser charge before she was due to be cross-examined.

Julia was relieved it was all over. Her parents felt cheated and angry that it had taken so long to reach this outcome. The Witness Supporter visited Julia and her family after the trial, talked through her experience, explained that Julia had shown tremendous courage in appearing as a witness and that the lesser charge was no reflection on her evidence. The NSPCC worker felt Julia would benefit from further help after the trial and arranged counselling for her.

- All children must receive individual support throughout the court process to reduce their trauma and help them to give the best possible evidence.
- A national network of young witness support services needs to be established as well as further improving the process of children giving evidence in court.
- Support for young witnesses is underfunded and inconsistent. There is a need for more funding to ensure that all young witnesses are given support to help them with the process of giving evidence, regardless of where they live.
- The NSPCC and other agencies (such as the Local Safeguarding Children Board schemes in Humberside and Bolton, Victim Support schemes in Manchester, Kent and Nottingham, Sussex Social Services Department and the Barnardo's schemes in Liverpool and Middlesbrough) cannot provide these services alone. The Government has to provide the funding that is required for a national network of services.
- The young witness support service itself can help save other costs within the criminal justice system. The supporter's role results in police, court officials, and lawyers having to spend less time with witness preparation and more time on official duties.
- To establish the full cost of providing individual support for every young witness in England and Wales, fuller statistics are required regarding the number, and nature, of young witnesses going through the criminal justice system.
- By ensuring that witnesses are fully prepared and able to give their best evidence, it is possible to increase the number of cases being brought before the courts and to decrease the number of court delays. This will mean that more defendants will face trial and the conviction of those offenders who have abused children will protect not only the current victim and but also potential future victims.
- Without individual support of a young witness service, a child or young person who has suffered abuse may feel unable to go through the court process due to the intimidating formalities of the current criminal justice system. These situations result in delays and rescheduling that is costly for the court service and also for society: when cases collapse it means that our system has failed to administer justice for children.

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## References

NSPCC Briefing Document (2004) *Supporting Every Child Through Court*.

Plotnikoff, J. And Woolfson, R. (2004) *In their own words: The experiences of 50 young witnesses in criminal proceedings* NSPCC and Victim Support.

**Date last reviewed:** October 2008

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