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EVALUATION OF NSPCC YOUNG WITNESS SERVICE

EXECUTIVE SUMMARY

Nature of Service

1. The Young Witness Service provides support and information to young prosecution witnesses, under 18 years old, in criminal cases, in accordance with Children's Evidence Order. They are referred to as "young witnesses". The Service includes support to the young witnesses and their parents/carers before, during and after any trial. The majority of direct support, particularly during the stage the child is giving evidence, is provided by trained volunteers. In more complex cases, particularly those involving ongoing child protection issues, or because volunteers are not available, it can be more appropriate for direct support services to be provided by a social work qualified Young Witness Worker.
2. Support before trial may include sessions in the young person's home, if a referral is received in sufficient time. In all cases a pre-trial visit to the court and familiarisation with TV link equipment with co-operation from Court Service is undertaken. At trial, the Young Witness Supporter (volunteer) or occasionally the Young Witness Worker is available to accompany the young witness into the court or TV link room. The Service will provide the court with information about the needs, wishes and feelings of the young witness. NSPCC have recently drafted assessment documents which are designed to inform the court of the child's capacity and needs and which will be subject to consultation. Post-trial follow-up aims to provide debriefing for the young witness and his/her parents/carers, and will address onward referral (particularly for counselling or post-abuse treatment work).

Extent of Service

3. The NSPCC commenced and funded this Service in 1999 predominantly in the Crown Courts, initially for Belfast and Londonderry, although cases from Belfast were heard in Antrim due to the closure of Crumlin Road courthouse. The NIO took over responsibility for the funding of the Service in 2001 and it was launched across all Crown Courts from 2003. The more recently established cover has operated from an office in Craigavon Courthouse extending service from Craigavon to Fermanagh and Tyrone, Armagh and South Down and Ards. However, this has posed difficulty for NSPCC as it is too large a catchment area for one worker to manage.
4. The Team comprises a Team Manager, who is predominantly based along with the Office Manager in a suite of rooms within Antrim Courthouse. One of the rooms is also used as a waiting area for young witnesses and their family before using the TV Live Link. The Team

Manager also has use of part of the NSPCC premises in Bishop Street, Londonderry, which is adjacent to the Courthouse. This is also the base for one of the three Young Witness Workers, who works full time and covers cases in the local court and also covers cases in Antrim and, when necessary, in Belfast and Omagh. A full time secretary is also based in Bishop Street and provides support to all team members as she receives and types their records and manages the storage of all the case files. There is another member of the team working part time and located in Belfast, where there is a small office provided in the Townhall Courthouse.

Finally, there is a third Young Witness Worker based in Craigavon, covering the whole of the southern part of the jurisdiction. Currently there is the use of an office in the Courthouse, which NSPCC have in turn shared with Victim Support. However, a move of office premises is imminent. The Young Witness Service will share a building in the Carn area with two other specialist NSPCC teams and it is expected that the arrangements will be settled by the summer of 2006.

The team is accountable to an Area Children's Services Manager, who is based in Ballymena. The Service is operated in accordance with a Service level Agreement with the Community Safety Unit of the Northern Ireland Office (NIO) which has provided the majority of the funding since 2001.

5. The entire team, therefore, comprises a Manager and Young Witness Workers making 3.7 whole time professional staff, a panel of 16 well trained and flexible volunteers and two administrative colleagues. The panel of volunteers are not evenly distributed across Northern Ireland and as part of the annual recruitment there has been specific targeting of the Belfast area. Therefore, because Belfast and the Southern Area were sometimes short of volunteers the Young Witness Workers were often covering their tasks. A promising potential new group of volunteers have, however, recently undertaken the rigorous training programme and 9 new volunteers have been selected.
6. The overall aim of the Service is to ensure that all young people under 18 years old, appearing as witnesses for the prosecution in the Crown Court, are aware and have the opportunity to avail of the Young Witness Service. However, at present the Service is not equally available as it does not extend to all courts. The policy of NIO and the funding available currently has limited the cover to Crown Court prosecution cases. NSPCC, although cognizant of the need for service by defence witnesses is not in a position to respond and no referrals have been received. The needs of defence witnesses and indeed of child defendants are an issue of equality and would not be easy to resolve but which, nevertheless, should be addressed.
7. NSPCC acknowledge that the funding is for prosecution witnesses in Crown Court and is not aimed currently at Magistrate's Courts. However,

although more in the past than currently, when they have been able to provide service to Magistrate's Courts, they have done so on the basis of upholding the principles of children's rights and specifically their protection. The reality, particularly in the early part of 2005, of pressure of work in Crown Courts in the southern area prompted NSPCC to advise and warn agencies through the Advisory Group that there would be a temporary withdrawal of service in the Ards Division. The Court Service, having appreciated the added value that the NSPCC volunteers and workers brought to the accompanying role, were disappointed at the decision. However, it was happily of short duration affecting only a few cases, as the Team Manager and colleagues came to the assistance of the Young Witness Worker covering the area.

8. A major question, during the evaluation, surrounded the capacity and preparedness of the Young Witness Supporters (volunteers) to take up more single-handed responsibility for the entire handling of a case. While the volunteers have had excellent relevant backgrounds and have found their task rewarding, they generally were not seeking to extend their responsibility. Therefore, the responsibility for managing cases in Crown Court, which have a mainly sexual abuse content and more often complex needs, is better retained as a partnership between the Worker and the Supporter. There will inevitably be occasions when the volunteer has to work solo, but they will always be a phone call away from advice. The best demarcation, in serious cases, is still the role of preparation and accompaniment of the child by the Young Witness Supporter and the role of assessment, introduction and liaison with other agencies carried by the Young Witness Worker. However, as the Service is rolled out to other courts and types of cases the need and uptake for support of Young Witnesses will be variable, depending upon the assessment of vulnerability and the child's capacity and wishes. It may be appropriate for these less serious cases to have volunteers, who wish to carry out a liaison role, assigned to Magistrate's Courts on a rota basis.
9. NIO provide 90% of the funding of the Service, although when some other organisational overheads, that are part of NSPCC finance and conditions of service, are taken into consideration the net figure is approximately 80%. In effect NIO funds all the service minus a proportion of the Area Children's Manager's salary, the differential in car allowances paid as part of NSPCC conditions of service and the enhancement of administrative posts. The latter involves the additional money paid by NSPCC, over and above the original amount given for administrative cover, due to extra cost for re-grading one of these posts to Office Manager. The other part of the 80% figure is a notional 10% management fee, but NSPCC have not included this in the calculation. NIO have signalled that they are in a similar position to all Government Departments and will have difficulty in increasing the amount. However, while it can be argued that the service is important to children and that there could be other interested stakeholders, the principal aim is to enable children to give "best evidence" in criminal prosecutions. Obviously this is a Northern Ireland Office responsibility. The present situation in terms of team capacity to

cover both referrals and maintain recruitment, development and promotional activity, is untenable. However, this may be resolved, not just through additional finance alone, but by certain efficiencies such as changes in the court system and in some staff deployment measures. Some of the suggested changes will require the attention and consideration of other agencies.

10. NSPCC have held the view that they have no “economic, strategic or selfish” hold on this service. But it does fit well with the NSPCC ethos and forms part of their goal to end child abuse highlighted in their “Full Stop” campaign. It is also an important component in their fundraising potential. There appears to be no purpose in altering the profile or the identity of this service. Rather, the attention needs to be focused on the way it is resourced and organised and also in how, despite significant advances, the adversarial legal system operates and continues to treat children and cause some of them undue stress.

The evaluation confirms that the Service is providing support that is **highly** valued by young witnesses and their parents and held in esteem by other agencies. Therefore, the challenge will remain the achievement of sufficient funding to expand the service and the pursuit of ways in which the re-traumatisation of children, particularly by unduly rigorous court tactics, can be reduced.

11. There are provisions within legislation and guidance which could spare children some of the delay and also further reduce anxiety or trauma. It will take a concerted corporate will to address and remedy the problems, and the impetus for this will need to be led by the Criminal Justice Board in partnership with Court Service, PPS, PSNI, the Law Society and the Criminal Bar Association and also in consultation with the judiciary. However, it remains fundamentally a safeguarding and children’s rights issue and as such all who are involved in the Children Order Advisory Committee, Area Child Protection Committees, Children’s Services Planning and the Framework Strategy for Health & Social Services for Children, Young People and Families will have a keen interest in encouraging continuous improvement.

RECOMMENDATIONS

1. The Criminal Justice Board should monitor the outcome of a Court of Appeal judgment on encouraging an earlier (guilty) plea (Paragraph 1.8)
Action: Criminal Justice Board
2. Measuring outcomes is a crucial area in terms of indicating effectiveness and value for money, current efforts will have to be developed further and additional criteria will have to be set. (Paragraph 1.10) Action: YWS
3. To manage the existing Crown Court work, an additional full time Young Witness Worker should be appointed forthwith and be predominantly based in Craigavon and the hours of the part time worker in Belfast increased from 23 to 30 per week. This revised staffing structure and deployment should be subject to further evaluation within three years in order for variables to be worked through in relation to case work and administrative demand at various locations. (Paragraph 1.12 & 1.16) Action: NIO
4. The Court User Group and the Vulnerable Victims and Intimidated Witnesses Group could be the appropriate mechanism to progress collaborative use of amenities and volunteers, not just for Belfast, but across the whole estate especially as Witness Services are rolled out. (Paragraph 1.13) Action: VVIW and Court User Groups
5. The NIO should proceed immediately to establish a working group to focus on how cases in the Magistrates/Youth Courts can be best served. The Group should incorporate Court Service, Public Prosecution Service, judiciary and police. It could also focus on deployment and location of Crown Court cases involving children in the light of several influences including the findings of other inspections and the impact of the Review of Public Administration. (Paragraph 1.14) Action: NIO
6. The roll-out to other courts and the consequent expansion of the service will involve the recruitment and training of additional workers as well as more members for the volunteer team. This will place additional demands on the administrative staff and an additional secretary should be appointed and be based mainly in Craigavon in time for the commencement of the pilot of extended service at the end of 2006. (Paragraph 1.18) Action: NIO
7. In serious abuse cases it is best that the two roles of Young Witness Worker and Young Witness Supporter are available at the same court. In other cases, two Young Witness Supporters could be teamed together, where the assessment suggests that the level of complexity is appropriate. (Paragraph 2.4) Action: YWS
8. A firm protocol must be established with both PSNI and PPS to ensure that referrals are immediate. (Paragraph 2.6) Action: YWS, PSNI, PPS

9. It would be preferable, in the interests of avoiding delay, to facilitate a Pre-trial Direction Hearing in Magistrates' Court where it can be established whether the accused will plead guilty. (Paragraph 2.8) Action: PPS
10. It is recommended that case files, where child witnesses are involved, should be processed without delay from the time of investigation and charging to processing for prosecution. (Paragraph 2.8) Action: PSNI and PPS
11. NSPCC staff have knowledge in child development and are experienced in child protection assessment. It is recommended that the draft assessment programme developed by the Team in order to communicate the child's level of maturity, cognitive ability, vulnerability and coping capacity, is considered for adoption by VVIW and implementation by the stakeholders. (Paragraph 3.2) Action: VVIW, PSNI and PPS
12. It is important to reinforce the need for feedback from children after the court case. It may be necessary to build certain additional expectations with each family into the agreement to use the service that binds them, as far as possible, to one post trial debriefing visit. (Paragraphs 3.4 & 5.11) Action: YWS
13. There is a need to improve the awareness of the Service among various professions while they are involved in basic training and to reach students at undergraduate, graduate, police college venues and as part of Continuing Professional Development. The Service would require additional resources to provide such training. (Paragraph 3.6) Action: NIO and YWS
14. The working relationship with Victim Support needs to be reviewed both at an individual court level and at strategic level in order to maximise cover and economy of effort, including in recruitment and training. A protocol, which is pending, will help. (Paragraph 3.7) Action: YWS & VS(NI)
15. Different court venues can be particularly busy from time to time and flexible deployment of staff has managed to meet these demands. However, if it were possible to concentrate child abuse cases in a smaller number of Crown Courts it could bring the benefits of specialisation. (Paragraphs 1.14 & 3.11) Action: PPS and Court Service
16. An approach should be made to PSNI and the PPS to explore why there are no children from ethnic minority backgrounds coming through as witnesses. (Paragraph 3.13) Action: PSNI and PPS
17. The Law Society and the Criminal Bar Association should encourage timely preparation for court, including the identification of any editing required in the video evidence so that it is achieved at as early a point as possible and further delay avoided. This could be underwritten by protocols with VVIW (Paragraph 3.14 (4)) Action: Criminal Bar Association and the Law Society

18. Equipment used in the CARE interview suites may be lagging behind the digital quality available in some courts. It will be important for this to be brought to the attention of the Joint Protocol Sub-committee of the Area Child Protection Committees. (Paragraph 3.14 (5)) Action: YWS & ACPCs
19. The funding by the Northern Ireland Office should be revised to cover the additional administrative costs both for the existing differential and the new post. (Paragraph 4.1) Action: NIO
20. In recognition that some cases do not proceed and others become more prolonged, there is a value in adopting a caseload weighting scheme that considers intensity of individual cases and not just overall numbers. (Paragraph 4.4) Action: YWS in agreement with NIO
21. The NIO should facilitate an assessment of the needs of young defence witnesses and young defendants and consider a set of criteria for assisting them and to determine whether this should come from the Young Witness Service or elsewhere and quantify and identify the demand for the use of additional interviewing and live link facilities. (Paragraph 4.6) Action: VVIW and Criminal Justice Board
22. The Inspection of Delay by CJINI noted that cases involving children were subject to greater delay. While effort has been made by the judiciary to remedy the problem, cases in which children are witnesses (and also defendants) should be flagged, fast tracked and timetabled in a similar manner to the Liverpool model. (Paragraph 4.21) Action: Court Service
23. It is recommended that, depending on criteria of vulnerability, consideration is given to the setting up of a panel of intermediaries skilled in interviewing children and deployed at the discretion of the judge. (Paragraph 4.28) Action: PPS
24. It would be desirable if the volunteer who is with the child in Live Link had the choice and the facility to activate an inaudible signal which would only be apparent to the judge, who would then have to exercise discretion as to whether to have a break in proceedings. (Paragraph 5.4) Action: Court Service
25. The concept of designating the Young Witness Worker as an “officer of the court”, similar to the status of the Guardian ad Litem, should be explored. This would be to recognize the role both with assessment of the child’s vulnerability and also keeping the court informed of how the young witness is affected by various factors that occur during a trial. (Paragraph 5.12) (See also recommendations 2, 10 and 22) Action: Court Service
26. It is recommended that the Young Witness Service, with the help of Court Service, PSNI and PPS, provide figures for the past year and prospectively gather data for three months commencing September 2006. This would be to gauge the potential demand for commencing a service in Magistrates/Youth courts from January 2007. At the same time there would

be the appointment of a further worker, (either seconded or on a fixed term contract) and a secretary for two years to assist with the expected referrals. Then following 12 months of operation there should be an evaluation completed by the end of March 2008, as to whether the service was appropriately targeted and effective and how the further roll-out should proceed. (Paragraph 5.13) Action: YWS, Court Service, PPS and PSNI

27. Funding of the Service should be adjusted forthwith to enable the cover for cases involving children in all courts through an initial pilot and subsequent roll-out to Magistrates and Youth Courts. Eligibility, other than in Crown Courts, should be selective based upon an objective vulnerability needs analysis completed by NSPCC on the referrals received and on self-selection. (Paragraph 6.6) Action: NIO

The recommendations are indicated in the body of the report in **bold**. They are repeated again after the conclusions in a format which apportions the lead responsibility to specific agencies.

BACKGROUND

Background to the Evaluation of NSPCC Young Witness Service

Evaluation entails an assessment of the efficiency and effectiveness of an organisation against specific criteria and objectives and that the grant paid to the organisation is being used to further the overall policy objectives of the NIO.

This evaluation is mid-way between major external evaluations and has been undertaken by the Social Services Inspectorate (SSI) in partnership with Criminal Justice Inspection Northern Ireland (CJINI).

Attention has been paid in this evaluation, not only to the efficiency and effectiveness, but to the implications for policy areas that are important to the Community Safety Unit, NIO who have commissioned the work i.e.

- user and partner agency views and participation;
- use of volunteers;
- equal opportunities; and
- child protection issues

An organisation such as NSPCC includes, as in this instance, the valued role of volunteers which is consistent with government support for the contribution of volunteers and the voluntary sector. The process of evaluation should, therefore, assist with the development of the Service.

The starting point is necessarily the previous evaluation which was carried out in 2001 by Research and Evaluation Services (RES) in partnership with Social Information Systems (SIS). A further request to assess the threshold for potential expansion of the NSPCC Young Witness Service (The "Service") was made to SSI in 2002. This was to enable the Service to meet growing demand as the Service rolled out to Crown Courts across Northern Ireland.

Acknowledgement

SSI wishes to thank the NSPCC managers and team for their cooperation at what was a time of pressure on their service. In addition, a number of volunteers and representatives of other agencies and users, such as members of the judiciary, Court Service staff, police, barristers, Public Prosecution Service (PPS) and a young witness and parent of a child witness were generous with their time and willing participation.

Moreover, the support during fieldwork from an inspector colleague from CJINI was invaluable and both his advice and that of a representative of NIO Community Safety Unit have assisted much in moulding the final shape of this report.

INTRODUCTION

The NSPCC Young Witness Service which has been operating in the Crown Court since September 1999 was last evaluated in 2001¹ with a further analysis of projected expansion in 2002². The purpose of this evaluation, which has been commissioned by NIO Community Safety Unit, is to assess the quality and adequacy of the service in keeping with the Service Level Agreement. Furthermore, to inform both the policy considerations and decisions as to how the service can best be delivered and how it will be rolled out into the Magistrates and Youth Courts.

Purpose of the Service

The Service aims to meet the needs of young witnesses by ensuring that such children are given due consideration by the criminal justice system and the professionals working within it, in order to reduce stress and trauma while they are in contact with the system and provide accompanying support up to and during giving evidence in court.

This is achieved by the following objectives:

- providing direct support, assistance and support to children, young people under age 18 years and their parents when the children may be required to give evidence in Crown Court;
- taking account of each child's assessed individual needs and wishes, informing the court and providing a consistent structured service for the context within which they may be called to give evidence;
- understanding and communicating the impact of testifying on young witnesses and their families in relation to their age, level of understanding, race, culture, gender and ability;
- recruiting, vetting and managing suitable Young Witness Workers and Young Witness Volunteers who will advise and consult with other professionals and provide support at an early stage to the young witness before the trial, then during and after the trial, including accompanying the child in CCTV Live Link;
- enabling the young witness to give their "best evidence" and thereafter debriefing them and preparing them for referral on to therapeutic services; and
- providing NIO with audited annual accounts, data on performance against objectives and analysis of feedback, including any complaints.

The current Service Level Agreement, which dates from April 2003, envisaged that the majority of the direct support would be provided by the trained volunteers except for complex cases where there are ongoing child protection issues. These were to be held by the Young Witness Workers who are qualified social workers.

¹ "Evaluation of the Young Witness Service" Research and Evaluation Services, Belfast. Published by NIO Research & Statistical Series: Report No 5 2002

² Memorandum on the plans for "roll out" of the Young Witness Service from Social Services Inspectorate to Community Safety Branch (NIO) 25 June 2002

Location and Extent of Cover

In 2003 the Service was extended from a pilot stage covering Belfast (at Antrim Courthouse) and Londonderry, to all Crown Courts, but limited to prosecution witnesses. It has not extended to defence witnesses or to young defendants, although the former can be referred by defence counsel as long as they take responsibility for any financial charge. The Service, although not expressly funded for the purpose, has on occasion accepted referrals from Magistrates and Youth Courts, whenever capacity has allowed. Indeed it has always been an aspiration to extend the cover to these other courts, as it is commonly accepted that such cases can be as complex as those which are referred up to the Crown Court and raise similar child protection issues. Therefore, from the outset of this interim evaluation, it was immediately apparent that the achievement of equal treatment for children would inevitably prove a challenge in terms of improving and increasing resources in order to serve hitherto unmet need. Reserving the Service to one type of court and one type of young witness does not comply with equality and children's rights requirements. Those cases referred from Magistrate's courts have also invariably faced delay because of the need to book court facilities for live link. Some have had to be slotted into the months of July and August when the Crown Court is in recess.

The young witnesses are often the victims of sexual offences and recalling and talking about these experiences in an environment such as a Crown Court is difficult and potentially traumatic. In the past year from April 2005 there have been 115 accepted cases referred, of which approximately 80% were sexual. The Young Witness Workers (workers) and the Young Witness Supporters (volunteers) have the knowledge and skills to prepare and support the young witnesses through the court process.

The Task

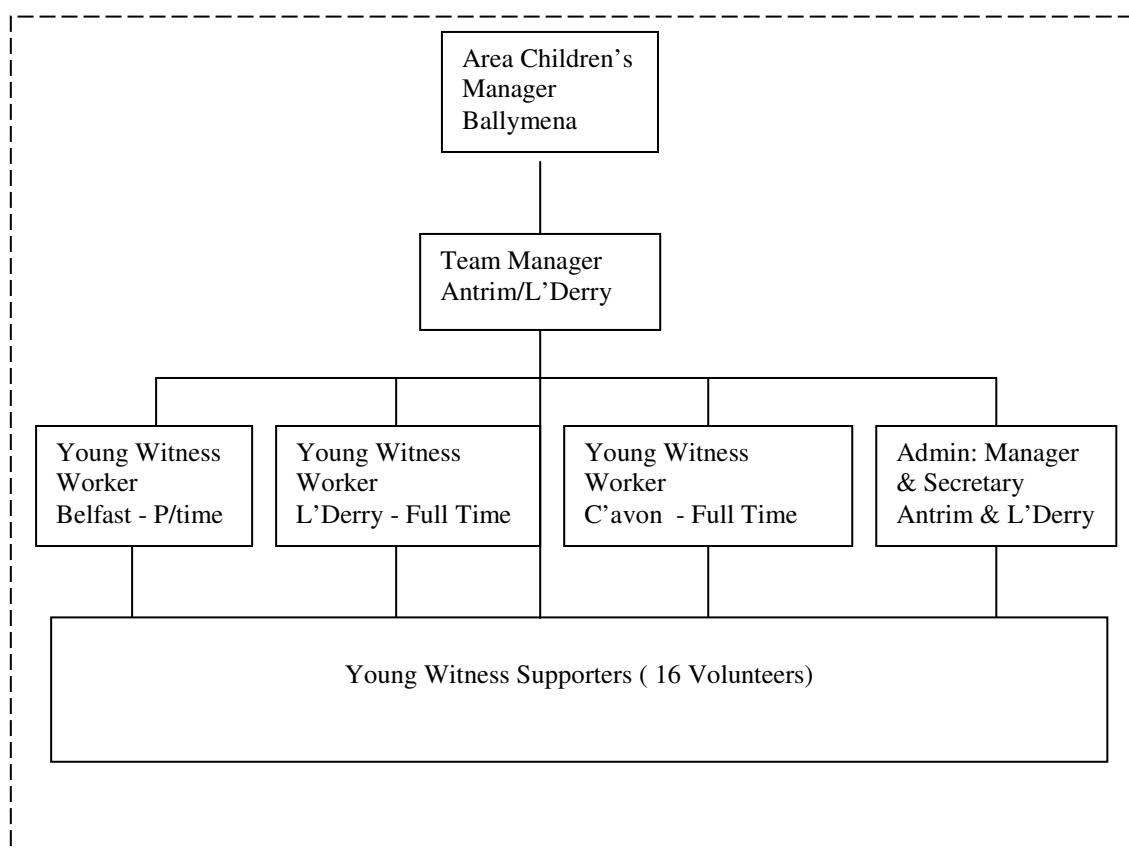
- To reduce the stress experienced by children and young people who may have to give evidence in court;
- Prevent further trauma that may be caused by their experience of the court and the legal process; and
- Ensure, where possible, that the needs of young witnesses in general are given full and appropriate attention by the Criminal Justice System and professionals working within that system.

Support before trial may include sessions in the young person's home and will usually include a pre-trial visit to the court and familiarisation with TV link equipment with co-operation from Court Service. At trial, the Young Witness Volunteer, or in their absence the Young Witness Worker is available to accompany the young witness into the court or TV link room. Post-trial follow-up aims to provide debriefing for the young witness and his/her parents/carers, and will address onward referral (particularly for counselling or post-abuse treatment work). The Service also provides the court with information about the needs, wishes and feelings of the young witness. Currently NSPCC are drafting assessment documents which, if ratified by court users, will inform the court of the child's capacity, vulnerability and needs.

Management

An Area Children's Services Manager, based at NSPCC Ballymena includes the management of the Service alongside a group of teams offering specialist services to children in need of protection and therapeutic support and also children who display sexually harmful behaviour. This grouping of services is appropriate, as some of the young people are referred after giving evidence in order that they may receive the therapeutic service available from the other teams. It is also helpful that the Area Manager was formerly the original Development Worker for the Service.

The Team Manager for the Service is based predominantly in Antrim Courthouse, which is the original location for the pilot stage of the Service and still remains the administrative centre where the Office Manager is also located. Both the Team Manager and the Office Manager visit the Young Witness Workers in their various locations in Londonderry, Craigavon and Belfast to attend respectively to supervision and a range of office tasks, including petty cash replenishment and filing. A second administrative worker is based in the NSPCC office in Bishop Street, Londonderry, which is just adjacent to the Court House and secretarial support is provided not only to the Young Witness Worker in that office but to other workers and volunteers through the management and storage of records and typing of reports. The workforce, therefore, comprises the Team Manager, 2.7 whole time equivalent Young Witness Workers, two administrative staff and 16 Young Witness Support volunteers.



THE REMIT FOR THE EVALUATION

The specific areas for examination were:

- To assess the effectiveness and benefit of the service both in achieving the objectives agreed with NIO and in meeting the needs of young witnesses during their contact with the criminal justice system thereby reducing stress and avoiding further trauma;
- To review the staffing and volunteer capacity in relation to current and prospective numbers of young witnesses;
- To consider the appropriateness and scope of the role of the Young Witness Worker and the role and scope of the volunteers;
- To review the staffing and volunteer requirements and in particular consider the proposals submitted by the NSPCC to the NIO regarding additional staff and locations and comment on their appropriateness in relation to actual and projected need. (see Annex A);
- To assess the views of stakeholders and parents/carers on the impact and benefits of the service;
- To comment on whether delivery of the service has provided value for money;
- To provide options, outlining advantages and disadvantages, on the type of service required for the Magistrates' and Youth Courts and how the service could be rolled out into the Magistrates and Youth Courts;
- To identify aspects of current good practice and how these may be sustained and developed; and
- To make specific, time bound recommendations to address any issues found with the service that would improve the effectiveness of the service.

Methodology

Information was supplied by NSPCC on the structure and distribution of the Service, their referral trends, job descriptions and the expectations of the Service as set out in the Service Level Agreement with NIO.

Semi-structured interviews were held with:

- 5 volunteers;

- 3 young witness workers
- 2 managers (Team Manager and Area Children's Services Manager);
- 2 Administrative staff (Office Manager and secretary)
- 1 parent of young witness age 7;
- 1 young witness age 17 (age 15 at time of giving evidence);
- 2 DPP/PPS managers;
- 4 PSNI CARE Unit (Det Chief/Inspectors);
- 1 Victim Support (NI) manager;
- 5 Court Service (NI) managers, 1 HQ and 4 Crown Courts;
- 3 Judges; and
- 1 QC (Defence and Prosecution);

The number of service users contacted was deliberately kept low. Further information, however, was gleaned by the study of 12 case files which were found to be well documented, efficiently recorded and regularly monitored.

This combined with the semi-structured interviews provided a comprehensive perspective on the extent of the Service, the levels of satisfaction and the identification of areas for improvement.

Approach

The objectives for this evaluation are addressed through the key indicators for quality provision of any service. There are also Principles and Standards behind the various services operated by NSPCC. These are agreed by Northern Ireland Office (NIO) and were last updated in April 2005. These are part of a well established National document. These standards, expectations and objectives have been integrated into five areas or themes and will be examined in the following text.

The five quality themes

There are five quality themes which influence standards including work with children and families. These themes are applicable to work with children and young people whatever the context in which they receive services.

The themes, which have been adapted as chapter headings, are:

1. Corporate Leadership and Accountability of Organisations, including Financial Systems, Resources and Marketing;
2. Effective service delivery and protective practice based on sound Policies and Procedures;
3. Effective Communication and Information;
4. Accessible, Flexible and Responsive Service including Relevance to need, sensitivity to users and other agents and effective use and support of Staff and Volunteers; and
5. Promoting, Protecting and Improving Well-being of children.

1. Corporate Leadership and Accountability of Organisations, including Financial Systems, Resources and Marketing

Subsidiary Themes:

- 1(a) *to comment on whether delivery of the service has provided value for money;*
- 1(b) *to consider the proposals submitted by the NSPCC to the NIO regarding additional staff and locations and comment on their appropriateness in relation to actual and projected need.*
- 1(a) *to comment on whether delivery of the service has provided value for money***

The NSPCC standard requires that financial rules, controls and accountability of the organisation are sound and services developed and activities carried out in a cost effective manner in accordance with the Service level Agreement and to the satisfaction of users, volunteers and staff.

- 1.1 NSPCC has a well established system of financial management and audit. The Service is tied into the Northern Ireland management and oversight located at the NSPCC headquarters in Belfast. The Office Manager reports regularly on expenditure and attends group meeting with other office managers. The NSPCC Young Witness Service provides quarterly updates on the accounts to the NIO Community Safety Unit.
- 1.2 The Service depends on a small team backed by a group of volunteers. This combination of paid staff and unpaid volunteers is ideal. The Service has attracted a dedicated band of people who appreciate the importance of the protective work they do and gain satisfaction from it. The backgrounds of the volunteers, often from education, health and social care and security occupations fit well with understanding the needs both of children and the public service and legal systems. The Young Witness Workers have all brought with them appropriate experience in child protection investigation and family support which is essential when dealing with the level of vulnerability and distress of young witnesses in cases that predominantly have been victims of sexual abuse. It was evident during the evaluation fieldwork that the in-house training is of good calibre, and that the basic interpersonal skills and aptitude, both of workers and volunteers, was demonstrated. This, and the longevity of service, renders the maintenance of the Service economic in terms of workforce support and planning. The workload has had to be constantly reapportioned among the team in order to alleviate the particular pressure on the Southern area and Belfast.

REFERRALS ACCEPTED PER YOUNG WITNESS WORKER

Area & Year	Crown Court	Magistrates/Youth	TOTAL
C'avon 2003/2004	13	18	31
C'avon 2004/2005	47	14	61
C'avon 2005/2006	46	Nil	46
Sub Total	106	32	138
Belfast 2003/2004	34	11	45
Belfast 2004/2005	27	6	33
Belfast 2005/2006	42	Nil	42
Sub Total	103	17	120
L'Derry2003/2004	27	14	41
L'Derry2004/2005	34	13	47
L'Derry2005/2006	27	Nil	27
Sub Total (To Date)	88	27	115
Overall Total	297	76	373

TOTAL ACCEPTED REFERRALS PER YEAR

YEAR	NUMBER
2003/2004	74 (Crown) 111 in total
2004/2005	108 (crown) 141 in total
2005/2006 (To March)	115 (Crown) 115 in total

The existing figures for referrals show a slight variation overall during the last three years but the team still needs consolidation for the current Crown Court work before considering the capacity needed to cover the other courts. Moreover, there is already an overt subsidy by NSPCC as their contribution towards the Service stands at approximately 20%. This demonstrates the organisation's commitment and that the Service ranks highly in the NSPCC public profile and consequently the potential to attract public donations. However, in view of the reinforcement needed for existing work, as well as expansion of the Service to other courts, the balance of contribution is likely to shift to a higher percentage paid by NIO.

- 1.3 Irrespective of the sourcing of funds from any other organisation or department it is fundamentally a duty for NIO to see that the needs of young witnesses are adequately and appropriately met. Not long after the Children's Evidence (NI) Order was implemented the Criminal Justice Review (2000) identified victims and witnesses as a key focus and recommended:

"We recommend that publicly funded witness support schemes should be made available at all Crown Court and magistrates' courts venues. Children should be included in such arrangements on a basis determined in the light of the outcome of the evaluation of the current pilot scheme."

- 1.4 The duty on NIO to continue the provision of a Young Witness Service is inescapable. So also is the duty of NSPCC to demonstrate that the service is well targeted and remains efficient and effective. As the next section outlines, the demand for the service has remained high and the Service has been struggling to keep up with referrals. This pressure, as previously stated, has been particularly felt in Belfast and in the South and West of Northern Ireland. In the former the difficulty has been a sudden drop in the number of available volunteers. The situation, in Belfast, has led to the worker accruing 200 hours “time in lieu” and she regularly completes recording in her own time. The Young Witness Worker based in Craigavon has the problem of covering a wide geographical area and a number of venues when cases may coincide. While the Service rolled out to all Crown Courts in October 2003 it was particularly during the year 2004/5 that a significant demand from referrals came from the courts in Newry, Ards, Fermanagh and Tyrone Divisions. Maintaining a uniform operation of the Service in these circumstances was appearing to managers as untenable and NSPCC shared their concern with the Advisory Group and subsequently wrote to NIO announcing that they felt it necessary to call a moratorium on cases in one court division. When the Service was withdrawn from Ards Division, the Court Service were, therefore, suddenly faced with the prospect of deploying their staff from other duties in order to accompany children who were witnesses. But NSPCC management avoided this lasting more than a couple of months as they continued to deploy both the workers and volunteers more flexibly. In essence, only a small number of cases were affected as over the summer and early autumn of 2005 the Team Manager and the colleague from Londonderry assisted with a spate of referrals. This experience underscores the importance of communication between NSPCC, NIO and Court Services. However, the quarterly reports and the twice yearly bi-lateral meetings between NIO and NSPCC should provide sufficient opportunity to anticipate pending difficulties and arrive at agreed or shared solutions.
- 1.5 Some of the volunteers who were interviewed appeared to be willing to travel further distances than currently requested and would accept referrals from a wider range of locations. The case, however, for an increase of staffing is valid and strong in the current configuration supporting Crown Courts and these have been outlined in the previous paragraph. But there are other factors that will affect court business over the next few years, particularly the corporate effort in tackling delay.
- 1.6 Undoubtedly, there is value for money in terms both of quality of the work done and in terms of the volume of demand and through-put. Despite the willingness and flexibility of the volunteers and workers, that has been demonstrated, there is a need to reach both short term and long term solutions. These are further examined in the section below.

1.7(b) To consider the proposals submitted by the NSPCC to the NIO regarding additional staff and locations and comment on their appropriateness in relation to actual and projected need

Last year there were 28 victims and witnesses referred from Magistrates courts of which 16 were accepted. Nonetheless, based upon discussion with managers in Court Service the demand for managing a more mixed workload could result in the referral of an additional average of 10 to 12 cases per year in each Magistrates' court area. This could require a combination of both extra staffing as well as more rigorous selection of cases. Already young people and their family have the choice to accept the Service or not and in Crown Court they invariably do. It may be more likely in the Magistrates court that some cases will opt not to self-refer and others who are notified to the Service will choose or be assessed as not being a priority to receive the service.

The continued provision of the Service and the prospect of increased investment by the funder, the confidence of the families and of the criminal justice system would be more likely to be secured and sustained if the cases are equally accessed and then assessed and provided at a consistently high, rather than a diluted quality.

- 1.8 In 2004-2005 there were 158 trials and 141 referrals were accepted by the Service for support. By the end of the period 54 were still in process, but of the remainder there were a considerable number of "guilty" pleas. In Antrim these accounted for 7 out of 13, in Ards 19 out of 25, Armagh 2 out of 2, Belfast 9 out of 28, Craigavon 4 out of 5, Fermanagh/Tyrone 11 out of 19 and Londonderry 6 out of 17.

Court Division	Cases Referred	Guilty Pleas
Antrim	13	7
Ards	25	19
Armagh	2	2
Belfast	28	9
Craigavon	5	4
Fermanagh/Tyrone	19	11
Londonderry	17	6
Total	109	58

Overall, it involved a significant proportion of 53% of cases and, therefore, representing work which might have been averted, or at least reduced, if an early plea had been elicited. This is not a criticism of the Service as they are not liable to know which cases will go as far as the trial opening before a "guilty" plea is lodged. In fact the Court of Appeal handed down judgment on 24 February 2006³ where the court stated that, if a defendant wishes to avail of the maximum discount in respect of an offence on account of his guilty plea, he should be in a position to demonstrate that

³ *Attorney General's Reference (No. 1 of 2006) (McDonald, McDonald and Maternaghan)* [2006] NICA 4

he pleaded guilty in respect of that offence at the earliest opportunity. In this regard, the attitude of the offender during interview is relevant. The greatest discount will be reserved for those cases where a defendant admits his guilt at the outset. This will hopefully encourage counsel to consider the prospect of the case at the earliest possible time and decide whether it is to be a plea. **It is recommended that the Criminal Justice Board should monitor the outcome of this Court of Appeal judgment on encouraging an earlier (guilty) plea as one means of reducing delay.**

From the beginning of April 2005 up to February 2006 there have been 125 referrals, of which 106 were accepted and 84 (79%) of these were sexual abuse cases. Of these 19 resulted in guilty verdicts and 16 were guilty pleas which accounts for 16%. The joint total of guilty outcomes at 35 cases represents 37%.

Meeting Objectives and Financial Accountability

- 1.9 There are court work related statistics gathered as routine and these are shared either quarterly or annually with NIO as agreed in the Service Level Agreement. Each year a review of progress against objectives and targets is submitted.

The annual grant for the year 2004-2005 paid by NIO to cover salaries and running costs was £238,442. For the period ending 31 March 2005 the actual cost to NSPCC was £261,011 and this does not include any management charge which would normally be 10%. As well as the proportion NSPCC subsidise for management costs from their own funds, this represents a deficit of approximately £22,000 or 9%. Together with the manager's salary cost, the additional car allowances and Office Manager's enhancement a 20% subsidy by NSPCC is reasonably well identified. The annual grant is not meeting current expenditure and, therefore, undertaking to meet additional need would add to the potential overspend.

- 1.10 Other objectives have been set for the Service and the current situation in regard to these is as follows:

- *To offer service to 95% of young people referred.* The target of 100 cases was based on the 2004/5 figures of 108 young people - this has already been matched before the year end at 115 cases;
- *To train 10 new volunteers.* The numbers of volunteers dropped between 2004 and 2005, due to illness and career choices, from 26 active volunteers to 19 and further recently to 16. Recruitment is painstaking and thorough and takes six months, but there was insufficient response to the campaign in 2005. This has been remedied in 2006 with a good response for the specifically targeted Belfast area. Final selection, however, depends on the continued

willingness as well as suitability of the candidate at the conclusion of the training. The result has been the offer of appointment to 9 new volunteers which is one short of the target;

- *To monitor the implementation of Special Measures* – NSPCC have confirmed that approximately 90% of young people had applications lodged for special measures (i.e. TV Live Link) and this was granted. Having a Young Witness Supporter in Live Link was requested and granted in 85% of cases and likewise video evidence in 68%. Finally, removal of wigs and gowns was agreed in 65% out of 69% of occasions.
- *To implement a model for measuring outcomes* – progress with this objective has been tentative and speculative. The objective of the Service is to enable the Young Witness to provide their “best evidence” and whether this results in a guilty plea or verdict. However, **this is a crucial area in terms of indicating effectiveness and value for money and criteria will have to be set.** The starting point, as NSPCC suggest, will be the individual assessment of the child and comparing predictions about their capacity and vulnerability against variables such as the strength of evidence, the enablement or the hurdles provided by the legal representatives, and the level of support provided by the immediate family, the NSPCC Supporter and Worker. Specific weighting should be given to each of these and probably other factors;
- *To seek and evaluate feedback from Young Witnesses, parents/carers and referrers* - This still remains as elusive area and the return rate is between 10% and 15% for these groups respectively. This falls short of what would seem to be a moderate target of 30%. Nevertheless, while it is natural, as stated elsewhere in the report, that such vulnerable young people mostly want to put the experience behind them, it is legitimate and in the best interests of children generally to be persistent in this task.

There has been considerable achievement in the successful outcomes but there has to be a balance in the use of staff capacity in recognition of the competing demands. While being responsive to case referrals the staff team are involved at the same time developing staff, volunteers and liaising with and training other agency staff. Working simultaneously on all fronts is necessary in order to receive timely and valid referrals which, in turn, leads to more effective service to children.

The Case for Expansion

- 1.11 The current composition of the employed workers in the NSPCC Team stands at one Team Manager, 2 administrative staff and 2.7 whole time equivalent Young Witness Workers. In June 2002 an analysis of the current and future demand was carried out by SSI on behalf of NIO. In the

previous 12 months of 2001-2002 the referrals of trials stood at 47 and the team composition of a manager and 2.5 staff was ratified. The thresholds for future expansion were set in relation to (1) an annual referral rate of 100 cases, and (2) the numbers of volunteers were also due to rise and the span of support and supervision would also have become more intensive. The team of Young Witness Workers would, therefore, increase incrementally initially to 2.5 when there were 20 volunteers, then 3, once there were 25 volunteers and to 4 when there were 32 volunteers.

PROPOSED RATIO OF WORKERS TO VOLUNTEERS

Year	Workers	Referrals	Volunteers
Base year 2001	2.5 staff	47	20
	3	100	25
	4	100	32

This criterion has, however, been less meaningful because of fluctuation in the numbers of volunteers. There has been a drop in the numbers of volunteers from 26 in 2004 to 16 in 2005, as some volunteers have resigned due to illness or moved on in terms of their career. It is only recently that fresh recruitment has been productive and the Belfast area in particular has, up to this point, been experiencing a severe shortage. It would be best to look at a combination of variables which go beyond a head count of both cases referred and of volunteers to determine a realistic staffing level. This would include the length and intensity of involvement with a young person both pre-trial, the trial itself and whether the de-briefing after the trial required more than one session.

- 1.12 In the year 2004 - 2005, as previously stated, 158 cases were referred with 141 being accepted. When this is compared with the position four years ago, during the pilot stage with the annual total of 47, it gives a measure of the three-fold increase in volume of business across all Crown Courts. At the same time, of course, the staffing has grown from one to a team of 3.7.

In the NSPCC Paper, written by the Team Manager, on the future of the Service there is a suggestion **that the part time post in Belfast is increased by 7 hours resulting in a total of 30 hours per week. This is endorsed as a recommendation but it should be clearly understood that it takes account of the demand from the Crown Court only.** Ideally, if this post required to be filled, the volume of work would merit a full time appointment.

- 1.13 The roll-out to the other courts is a different matter and will lead to additional demand not only on staffing, but on office space, waiting areas and the TV Link rooms from Magistrates and Youth Court, in relation to special measures. In that regard making best use of the facilities could be assisted by collaborative work involving Victim Support, NSPCC, PPS and Court Service. The assistance of Victim Support is already important

when there is a significant demand for access to and use of waiting area and Live link TV rooms in Laganside. **The Court User Group and the Vulnerable Victims and Intimidated Witnesses Group could be the appropriate mechanism to progress this, not just for Belfast, but across the whole estate.**

It has already been argued by managers and members of the NSPCC team, with validity, that some cases in lower courts can be as complex as Crown Court. Therefore, it would be consistent to regard the skills and experience of the qualified Young Witness Workers as equally required in these specific cases.

- 1.14 The hours of work by the part time member of staff in Belfast are suitable to the Young Witness Worker's home circumstances and while it is good to try and accommodate this in order to retain experience and continuity it would appear that Laganside would benefit from a "whole time equivalent" member of staff. This could be achieved by having a share of an additional staff member, as the proposal paper outlines, but assisting both in Belfast and Craigavon/Downpatrick. However, there may be other variations that could aid efficiency, such as all children's evidence cases being concentrated in Belfast and Antrim and thereby pooling team resources and also facilitating greater specialism among advocates and a speedier turnover of cases. It is recognized that **Laganside is a particularly busy venue, but it may be possible to concentrate child abuse cases in one or two Crown Court venues and bring the benefits of specialisation and the creation of a "Centre of Excellence"**. The implications of this will need careful consideration as it may have a "knock-on" effect on all parties.

It is also recommended that a working group is established to focus on how cases in Magistrates and Youth Court could be best served and should be comprised of NIO, NSPCC, Victim Support (NI), Court Service, Public Prosecution Service, judiciary and the police. They could then consider deployment of personnel in relation to all Crown Court cases including their location, in the light of several influences including the findings of other inspections and the impact of the Review of Public Administration.

- 1.15 There are valid arguments about the value of the accused being tried in a court near to the home locality, as a means of demonstrating justice being done and seen to be done. Any consideration of concentrating cases, therefore, would detract from this principle and would affect other personnel and professionals. However, distances in Northern Ireland are not large and it would be preferable to ask families to travel to a more central location for the period of a trial than for professionals, such as a Young Witness Worker being tied up in travel for the equivalent of one day a week for the whole year.
- 1.16 When taking staffing and accommodation into account it would again be better to opt for economy of scale. There is cramped accommodation for

the Young Witness Worker in the Old Townhall Court House and the NSPCC vision is that it could be replaced along similar lines as in Bishop Street, Londonderry. Such a suite of offices, for example, in the new Victoria Centre would provide integrity for witnesses who are waiting and could use TV live link from the same premises. These premises could be shared by at least 3 of the team i.e. the existing part time post for Belfast (0.7) and supported by a 0.3 proportion of the additional full time young witness worker shared with Craigavon and in due course an extra administrative colleague when the service is rolled out to other courts. This model, therefore, factors in one additional colleague to commence as soon as possible. There will be additional costs, including overheads, estimated at £50,000 plus £8,000 for additional hours in Belfast even before the cost of accommodation. The latter has been estimated at £12,000 per year resulting in a prudent figure of around £70,000. **It is recommended that the post is established forthwith and reviewed within 3 years in order for the other variables to be worked through.** In the longer term with the roll out, while referrals from a wider range of courts are likely to grow incrementally, the criteria for selection of cases, their pace through prosecution and court system, as well as location could allow a more efficient throughput. The profile and location of the new post might, therefore, need to be varied. In addition, if there was a more central deployment of members of the team to serve Crown Courts, this would be facilitated by a "hot-desking" presence in other facilities, such as shared rooms with Victim Support and with NSPCC teams located outside Belfast e.g. Craigavon. The assistance of Court Service with the identification and provision of suitable and economic accommodation will be valuable.

- 1.17 The Young Witness Service have estimated the potential demand from the Magistrates/Youth Courts to be in the region of 350 cases per year across seven court divisions and 20 court venues. The actual demand from these cases is, however, uncertain and as to how many of the children involved would need or want the service. In practical terms the police will be informing the witnesses of the availability of the Service and there is the opportunity for self-referral as well as by PSNI or PPS. It would then rest with the Young Witness Service to assess if their help was required. It will be important to monitor the number of children who could be helped, the nature of the cases and uptake and indeed whether there is any quantity of unmet need. The assessment scheme and pro forma recommended by the NSPCC Team could be a useful tool in deciding whether to offer the service and at what level. (see Appendix 2)
- 1.18 At the present time there can only be speculation about the demand, including the volume and appropriateness of work to be undertaken and by whom. It would, therefore, be best measured through a pilot scheme, after establishing standards and criteria. A period of 18 months, commencing from September 2006, could give a reasonable basis for an evaluated model upon which to base plans for a roll-out to all areas. It is considered best, by NSPCC and NIO, to locate the pilot scheme in the Craigavon area as this may be more typical than, for example, the Belfast area. It may also be useful to team two Young Witness Supporters

together in some of the cases, possibly using a rota system. One volunteer would support and accompany the child and the other would carry out the liaison duties, thus enabling the Young Witness Workers to continue their main focus on Crown Court cases where child protection cases predominate.

During the information gathering stage of three months the aim, with the help of the Young Witness Service, PPS, PSNI and Court Service, would be to assess the potential demand for commencing a service in Magistrates courts. This should include an estimate of what would be involved in extending the Service to defence witnesses and also to estimate what would be required for young defendants. These latter groups, however, are unlikely to be provided with any service for the foreseeable future.

This proposal would require negotiating additional resources for the pilot stage over and above the worker needed for existing Crown Court cases. The required capacity could be achieved by deploying a worker who is either seconded or recruited on a fixed term contract for two years and to be based in the Southern area. The additional area of work would entail further preparation and training of workers and volunteers. At the end of the 12 month pilot a three month period should be used to evaluate whether the service was appropriately targeted and effective and decide how the Service is to be rolled out.

The roll-out and the expansion of the service to cover other courts and the recruitment and training needs of the volunteer team will have the consequence of placing additional demands on the administrative staff. This needs to be anticipated by the appointment of a full time secretary to the Craigavon office base.

2. Accessible, Flexible and Responsive Service including Relevance to need, sensitivity to users and other agents and effective use and support of Staff and Volunteers

Subsidiary Themes:

- 2(a) to consider the appropriateness and scope of the role of the Young Witness Worker and the role and scope of the volunteers;*
- 2 (b) to manage the volume and quality of work and ensure supervision, which is formal, takes place on a monthly and case-related basis. Case files are seen monthly and signed by the Team Manager and every other month a sample is seen and signed by the Area Children's Services Manager.*
- 2 (c) to develop knowledge, competence of staff and volunteers and ensure access to support, as well as counselling, if necessary.*

2.1(a) to consider the appropriateness and scope of the role of the Young Witness Worker and the role and scope of the volunteers.

NSPCC as an agency has a set of minimum requirements for the recruitment, management, supervision and training volunteers. Through these standards it aims to extend service capacity by being close to the Community and by tackling the power imbalance. It sets out a clear role description and the accountability structure. It underwrites induction, supervision and annual appraisal.

2.2 The Service and its activities are keeping abreast with best practice and are being continuously improved through mechanisms such as supervision and Team Meetings. Every month there is both a formal Team Meeting and also a Practice Meeting where team members outline specific studies on practice. Innovation is encouraged by response to problem solving of issues raised by cases and leading to sharing ideas and proposals with other agencies.

2.3 The significant difference between Victim Support (NI) and the Service is the combination of workers who are qualified social workers alongside trained volunteers. High professional standards are recognised as essential for work with vulnerable children and to be confident that volunteers always have ready access to advice and support. In addition the workers and supporters try to remain constant with the same case whereas Victim Support volunteers can change on a daily basis.

2.4 The question was universally addressed as to whether it was always necessary for both the worker and the volunteer to be involved in cases. Logistically, it has not always been possible to have the volunteer and the worker in the same court, particularly in the South & West and in those circumstances it may depend on telephone contact, if needed. It is preferable if both can be available to complement each other as events and developments in the court room will be unknown to the volunteer who

is waiting with the child or accompanying them while giving evidence through Live Link. The background professional competence and longevity of experience of volunteers might be expected to fit them to work alone. However, the volunteers are generally content with the profile and usefulness of their task and do not wish to embark on a second career. It may be helpful, nonetheless, as stated in the previous chapter, for two Young Witness Supporters to be teamed together, where the assessment suggests that the level of complexity of the case is appropriate. One volunteer would provide the usual continuity for the young witness and the other would be on a rota for attendance at the court and ready to liaise and communicate with the child, family, supporter and other agency representatives as appropriate.

As well as in difficult child abuse cases, complexities can arise in any case and communications need to take place urgently. It is, therefore, better that the two roles are maintained so that support is always available to volunteers at the appropriate time, either in the same court or by telephone.

- 2.5(b) ***to manage the volume and quality of work and ensure supervision, which is formal, takes place on a monthly and case-related basis. Case files are seen monthly and signed by the Team Manager and every other month a sample is seen and signed by the Area Children's Services Manager.***

The expansion of the Service since 2003 and the pattern of cases referred particularly in the past year have resulted, as previously stated, in it being particularly stretched in the southern part of Northern Ireland. One full time worker has attempted to cover Downpatrick, Newry, Craigavon, Dungannon, Omagh and Enniskillen Courts, with some cases occurring simultaneously. The Young Witness Worker has, therefore, had to leave volunteers unsupported when the worker would normally be in and around the court liaising with the family and other agencies involved. Increasingly the Young Witness Worker from Londonderry has been covering cases, not just in Antrim and Ballymena, but in Belfast, Omagh and Dungannon. This flexible deployment has been helpful and has provided relief to an untenable position whereby in 2004/5 the two fulltime workers had a differential of 13 referrals (47 compared to 34) for Crown Court and roughly the same again in regard to additional work in Magistrates/Youth Court (a total of 61 compared to 47). This situation resulted, during 2005, in a temporary withdrawal of the Service from the Ards court area, some of whose cases were heard in Downpatrick court. The announcement of this moratorium coincided with the interviews associated with the evaluation fieldwork and it was evident that the prospect of Court Service staff having to fill the breach was going to create pressures which would take staff away from other tasks in order to provide the accompanying role to children. This has become unfamiliar territory to Court Service staff as their experience and skill in accompanying children is not continually being honed, as it is with NSPCC volunteers.

The summer period tends not to be so busy and the declared withdrawal of the Service was in fact tempered to a position whereby each case was being considered on its merits.

Irrespective of the pattern of referrals the regularity of supervision is maintained on a monthly basis. Twelve case files were chosen for scrutiny as part of the fieldwork and these proved to be well organised, containing clear and informative assessment and narrative. They also showed evidence of appropriate planning and systematic monthly endorsement by both the Team Manager and on a more extended basis by the Area Manager.

- 2.6 The Service receives its referrals from the police and the PPS although not all of these are received as early as they should. The PSNI CARE Units are usually good at referring, less so their uniformed and CID colleagues. This means, on occasions, the home visit has to be dispensed with due to the short notice. However, Court Service staff are generally very accommodating of a pre-trial visit to view the surroundings up to the morning of the trial. It is prudent in the meantime that the Service adds to their established weekly telephone check for referrals, not just with the PPS but also should identify a central source within PSNI to receive an update on any cases that may proceed to prosecution. **However, it is recommended that a firm protocol is established with both PSNI and PPS and that referrals must be immediate.**
- 2.7 A visit is made to the family home by the worker and their agreement to proceed is sought before introducing the volunteer. The volunteer may visit on several subsequent occasions to build a rapport and explain the Young Witness Pack. The preparation is followed by support during court and sentencing. The role changes to listening and debriefing and potential referral onward to therapeutic work. Within Laganside Court Victim Support have, on some occasions, stood in at the post-evidence stage as the parents can still require a lot of attention up to the trial is finished, even though the child has returned home. As a general rule NSPCC sustain contact until the end of the trial and the Young Witness Worker does strive to attend court with the family to hear the verdict. This can usually be four days after the hearing ends.
- 2.8 The typical profile of the young witness is usually a girl aged 13 who has been the victim of abuse, i.e. 79% of cases are indecent assault. As this is invariably Crown Court business the flow of work is determined by the court calendar. During court breaks there is opportunity to help children who are witnesses in Magistrates' Courts and the complexity of some of these cases confirms that the children appearing as witnesses merit the same service as children in Crown court. Not all Magistrates' Courts, however, have suitable amenities to facilitate "special measures" but Court Service is able to move a hearing to a suitable court venue. Each county court division has at least one such venue. Then while acknowledging that the nature and category of each case will determine the appropriate court venue it would be preferable, **in the interests of**

avoiding delay, to facilitate a Pre-trial Direction Hearing in Magistrates' Court where it can be established whether the accused will plead guilty. This would be considerably more economic and less emotionally taxing to the prospective child witness. A barrister also drew attention to the lapse in time between the accused being charged and the police informing the prosecution and the prosecution, in turn, listing a case to be heard. **It is recommended that case files, where child witnesses are involved, should be processed without delay from the time of investigation and charging to processing for prosecution,**

2.9(c) ***To develop knowledge, competence of staff and volunteers and ensure access to support, as well as counselling, if necessary.***

There is learning from courses, conferences attended by workers and volunteers and informed by developments in wider child care, child protection and strategies or plans to assist victims.

Both workers and volunteers are assured of being valued as there is an annual appraisal as well as monthly supervision, which is recorded. There is also an annual questionnaire completed by each worker and volunteer and given to the Area Manager.

2.10 The distinct role for workers and volunteers is written into the job descriptions and role specifications, but is also recognised by the representatives of other agencies. PSNI CARE Unit staff welcome the liaison role of the worker who co-operates closely with the "Officer-in-charge" of the case and arrangements about attendance at court and accompaniment of the child, which relieve the police of such tasks. Court Service staff similarly acknowledged the co-ordinating and liaising role of the workers. Judges commented that the system has assisted children appropriately, the proof was that they rarely needed to talk directly to either the workers or the volunteer when cases were being heard. They accepted the Service as maintaining independence and welcomed mutual input to Court User groups and to volunteer training.

2.11 The nature and content of the material that comes across from the video evidence-in-chief and examination in the court room can be harrowing and difficult for anyone to cope with. Young Witness Supporters are given opportunity in debriefing sessions to express their feelings. They also have opportunity to communicate any concerns or complaints to the Young Witness Worker or to the managers and can invoke a grievance procedure. The considerable continuity from the group of volunteers testifies to the effectiveness of the selection and training, the support they receive and the satisfaction gained from seeing children cope with the demands placed upon them.

2.12 There has always been a heavy emphasis on careful selection and then rigorous training and regular supervision of volunteers. A course which takes eight full days has input from Victim Support, PPS and judiciary. Volunteers, helped by Court Service, make the child as comfortable and

familiar as possible with court surroundings and they are skilled to provide relaxation techniques for the time they will accompany the child at court. The volunteers introduce an information pack and an explanatory video which helps the child and family understand what lies ahead. All who were interviewed were satisfied with working relationships and the quality of training and support. In addition to training, there are information days and a couple of social events. As well as mileage and "out of pocket" expenses being paid there was a sense of generally being valued both by the Service and by the young people and parents. This was evidenced by the number of verbal expressions of "thanks" and similarly of notes of appreciation received.

3. Effective Communication and Information

Subsidiary Themes:

3(a) *to aim to avoid discrimination and recognise and respect difference. To undertake monitoring and checking the impact of their services and to gauge attention to Equality and Diversity.*

3 (b) *to assess the views, including complaints of stakeholders and parents/carers to gauge the impact and benefits of the service*

Judge Valerie Pearlman states in the video “A Case for Balance” – “I think it is very important that we, as judges and also the criminal justice system generally, should get the feedback of witnesses. I have always thought that feedback helps because unless you know the criticism that is made against the system or the individual judge or advocates you can’t really deal with it”⁴.

3.1(a) *to aim to avoid discrimination and recognise and respect difference. To undertake monitoring and checking the impact of their services and to gauge attention to Equality and Diversity*

Equality does not entail treating everyone uniformly but rather ensuring that every young person and family are dealt with in a timely way and due consideration is given to their needs. This may require sensitivity to some particular vulnerability, such as physical disability, tenderness of age or other intellectual difficulty. It should also lead to some accommodation being achieved that upholds the due process of the law, the rights of the accused and the expectations of the public who want justice and protection. Part of the sensitivity has been established already with the provision of Special Measures, which are arrangements or adjustments to make the courtroom and the related personnel less intimidating to a child or young person. These are now generally assumed to be the baseline, chiefly the use of Live Link CCTV and evidence-in-chief which is accepted by video-recording. If a witness wishes to vary the arrangements it must be consciously stated and agreed.

3.2 One young person, who was interviewed, was unhappy that whereas she could be seen by the accused on a screen through the picture relayed to the court room she was unable to see the face and expression of the accused relayed to the TV link room. This would not be a usual request but it would have had validity for this 15 year old girl. Therefore, there is a continuum of exposure to stress that a child or young person can withstand, from the one who is ready and keen to meet any challenge and will succeed in getting their experience across in open court, to the child who is reluctant to set foot in court precincts at any time. Between these extremes the majority of young witnesses will, though finding the prospect daunting, do their best. With the development of remote TV link to NSPCC or other premises it has become possible to spare some children

⁴ Taken from “NSPCC “In their own words” – the experiences of 50 young witnesses in criminal proceedings”

from having to enter the Courthouse proper. The important factor is to assess each child or young person to determine what facilities and type of examination that is within their capacity. **It is recommended that the draft assessment programme developed by NSPCC is considered by VVIW and in particular PSNI and PPS as a means of determining each child's capacity, vulnerability and coping capacity** and, thereby, the level of priority required in order to inform case management. This will not only be a measure that will accord equal treatment but also identify any cases where the young person and family do not want or need the Service and thereby release resources to be used for the benefit of others who need the service. The Recorder for Belfast has indicated that such information would be discloseable.

There will be a major encouragement to the process when a protocol on third party disclosure, prepared by the Crown Court Judicial Committee, under the chairmanship of Mr Justice Hart, is introduced governing how material needed for consideration of disclosure will be handled. The problem often in "third party" disclosure is where a child is receiving therapy and the case files, which are often very detailed, are required often at short notice for study and decision regarding what should be shared with defence.

All the necessary steps are in place for the first "remote" CCTV Live Link in Bishop Street in Londonderry so that a Young Witness can provide their evidence from a location separate from the court but still gives assurance of security and integrity. The Recorder for Londonderry has visited and has expressed confidence in the arrangements. NSPCC has vouched the initial donation to set up the necessary equipment. It will be good to see this reach the operational stage on a pilot basis.

3.3(b) ***to assess the views, including complaints of stakeholders and parents/carers to gauge the impact and benefits of the service***

All the representatives interviewed as part of the evaluation displayed a full awareness of the role of the Service and confirmed their acceptance of the responsibility to be sensitive to the vulnerability and the needs of young witnesses. Moreover, there was an acknowledgement to be inclusive of witnesses for the defence and some would extend this to young defendants. All the stakeholders recognised the importance of good communication with the Service and its inclusion in court user consultation mechanisms. Understandably, all referred to the progress that had been achieved and to their individual and corporate efforts to facilitate children and enable them to give "best evidence". However, the representatives of Court Service, the judiciary and barristers emphasised the need for the Service to preserve its independence in the role of supporting witnesses and that there should be no impediment to fairness of process for the accused.

The NIO Community Safety Unit has regarded the Service as valuable and in the best interests of children who are prosecution witnesses and

they also wish to preserve its integrity. As an agency working within public spending parameters, there is a limit to how far the Service can extend. Therefore, the inclusion of defence witnesses and young defendants has to be deferred at this point in time. NSPCC, however, are able and willing to assist defence witnesses if there is funding identified. In essence NSPCC will offer a service when it serves both the child's needs and the interests of justice. The other natural concern for NIO is that efficiency and value for money are not prejudiced by any over reliance on the deployment of paid staff when volunteers may be quite capable of helping the child without constant support.

- 3.4 The Service has always been expected to provide support before, during and after the trial. Debriefing is one of the identified tasks in the Service Level Agreement and, in addition when needed, the Service should put the child and family in touch with therapeutic or other treatment services, However, in most cases the contact comes to an abrupt end when the child has finished giving evidence. Partly this is due to the turnover of cases and the Young Witness Workers' priority going to the cases as they are newly referred and then go through court. It is also partly due to the child and family's wish to leave the trauma behind. Therefore, in terms of optimum communication with the family and the timeliness of achieving follow-up and user feedback some situations may be appropriately undertaken by telephone contact. **Follow-up of children and their parents must remain an explicit part of a service expectation agreed at the outset. It is important, therefore, to reinforce the need for feedback and build certain additional expectations into the agreement to use the service that binds each family, as far as possible, to one post trial debriefing session within one month of the court case concluding.**
- 3.5 Every encouragement should be given to involving children and parents in working/focus groups and gaining their influence on the future delivery of service. Volunteers could be helpful in this respect by arranging and undertaking follow-up visits to families who have not responded to the initial request and make an arrangement to administer the questionnaire.

Professional Awareness

- 3.6 There is a training issue that needs attention, in relation to raising and maintaining awareness of the Service among various agencies and professionals. As well as input by NSPCC and Victim Support to legal and court employees **there is a need to reach students with child witness awareness at undergraduate, graduate, police college venues and also through Continuing Professional Development across the various disciplines.** This will prepare the social workers, lawyers and police officers of the future with an appreciation of what is involved.
- 3.7 Since the beginning of the Service there has been a close relationship with Victim Support (NI). Often the two organisations share the same accommodation and some volunteers serve both children and adults by

helping the two services. There can be the occasional tension, however, such as pressure on the witness waiting areas in Laganside. However, the organisations are in constant contact and are now represented on the Victims and Vulnerable Witness Group (VVIW), where issues of mutual concern may be resolved. **The working relationship with Victim Support needs to be reviewed both at individual court level and at strategic level in order to maximise cover and economy of effort, including in recruitment and training.** A protocol between the two organisations, which is pending, will help.

Public Awareness

- 3.8 NSPCC has a tradition of service provision that is innovative and at the same time undertakes research and advocates for children's rights. It has been wholly appropriate for NSPCC to pilot and develop this service. So much of this work has been pioneering and in advance of what is still, by comparison, a very patchy and piecemeal provision for Young Witnesses in England and Wales. There is, no doubt, further benefit that the Service here can bring to colleagues and other agencies by publishing their achievements. This would be most fitting as 10 years has elapsed since the implementation of both the Children (NI) Order 1995 and the Children's Evidence (NI) Order 1995.

Views of the Police Service of Northern Ireland (PSNI)

- 3.9 The officer in charge (PSNI) still continues to work closely with the child and family during the time leading up to and during the court hearing and helps keep them informed. However, the work done by the Young Witness Service considerably relieves the PSNI "Officer-in-Charge" of responsibility they previously held. They are confident that the young witness's emotional needs are being better served and there is no longer the risk of the police officer being perceived as "coaching" a child.

Views of the Public Prosecution Service (PPS)

- 3.10 The representatives of the PPS acknowledged the Service for maintaining the level of independence and integrity and this, they felt, also appeared to be the view held by defence representatives. The Judicial Studies Board was credited with the promotion of greater awareness.

Views of the Judiciary

- 3.11 There had been a question, at the time of the last evaluation, about the appropriateness of NSPCC, with a well know ethos in campaigning for children, taking on the role of supporting young witnesses in an impartial manner. This is no longer seen as an issue.

The judges all commented on their own responsibility to be fair both to the young witness and also to the accused. They considered that the

introduction of “special measures” goes part of the way to making the court environment less foreign and less intimidating.

The judges also expressed the view that they would be sensitive to the child needing breaks but yet not being too precipitous in cutting across counsel’s flow of questions.

There is no doubt that judges would prefer testimony to be given in open court but that improved technology helps them accept that the remote TV link is in the children’s best interests.

There have been attempts to schedule cases involving children so as to reduce time loss and wastage and also the prospective piloting of remote TV Link with an NSPCC office is welcomed.

The Recorder for Belfast has created changes in the listing system for cases so that serious violence or sexual offences are listed for earlier in the week i.e. to start on Monday’s. There must also be at least 8 weeks from arraignment to the trial so that participants are expected to have all materials prepared and issues resolved.

The Recorder also plans to introduce a case review so that progress in between arraignment and trial can be monitored. He would prefer to be told of any pending problem rather than spending time in a review which would be nugatory. This system of listing, while it may be more generous in time span than other cases, is designed to improve speed and reduce delay because people are better prepared. This puts pressure particularly on defence at the point of committal and he would take a dim view of Barristers coming at the point of trial asking for various things to be done, which should have been attended to at an earlier time.

Some judges have already agreed, similar to the “best practice” model in Liverpool which the NSPCC Team have visited, that wherever possible the child should not give evidence until the morning of the second day of a trial. This is likely to be more easily achieved in the urban area. However, the prosecution have still asked children to come on the first day.

Specialisation might be part of a solution so that practice could be more consistent.

Views of Court Service (NI)

- 3.12 The Court Service welcomes the assistance given to children by NSPCC and values the independent role they maintain. Every time a clash of commitments results in a volunteer or worker being unable to accompany a child they are reminded of the demand from their previous responsibility. There is also mutual involvement in training their staff and volunteers. Court Service also would endorse the value of legal professionals developing and maintaining specific expertise with child abuse cases .

Views of the Young Witness Team and Volunteers

- 3.13 In terms of working relationships with other agencies, the Service has a protocol with the police whereby initial enquiries are by telephone and there is an email template which is used for subsequent referrals and also a protocol with the Court Service. The current gap, however, is **the need to finalise a protocol with the PPS. Both the latter and PSNI should, however, examine why there are no children from ethnic minority backgrounds coming through as witnesses. Consideration also needs to be given to a set of criteria for assisting young defendants and whether this should come from the Young Witness Service or elsewhere.** It would also be important to identify and quantify the potential demand for additional interviewing and live link facilities and other special measures.

Observation at Court

- 3.14 During the evaluation there was an opportunity to observe the respective agencies communicate with a young witness aged 17 (who had been 16 at the time of sexual assaults). Her mother and father were also present. The benefits were as follows:

1. The witness and her parents were personally welcomed by a member of Victim Support in the waiting room on the fourth floor of Laganside Court. The volunteer also offered and provided hot drinks.
2. Shortly after, the Young Witness Worker and a student social worker, who was on practice placement and undertaking the role of Supporter, arrived, greeted the family and took them through to the NSPCC waiting area and Live Link suite.

The NSPCC room is brightly decorated, comfortably furnished and there is provision for tea and coffee, reading material, games (including video/TV games).

The only problems with this room are the absence of a view outside, as the natural light comes from high level windows. Also, there is the need to be sure of access using private stairs in order to reduce the prospect of encountering the accused or their supporters rather than using the main stairs and lift. The best means of doing this is to have an agreement with PPS for the use of the stairway to their private consulting rooms.

3. The PSNI officer-in-charge and the prosecuting barrister also used the NSPCC suite to check that the young witness was ready to give evidence and reminded her of the sequence of how things in court would unfold. They both had an excellent manner with the young person and emphasised that she must maintain truthfulness and not to be distracted by her awareness and concern that not

only the accused but his family and supporters were present in court. This united approach was done in a way that accorded dignity and respect and was endorsed by the Young Witness Worker.

4. The observation of the case only extended as far as the commencement of the trial. The first issue that requires comment is the requirement for the Young Witness to be at court on the Monday, but not being called until Tuesday. Then although the jury was called and addressed by the prosecution barrister at the opening, the case was stalled for a further day because **the defence had asked for 17 edits of the video evidence-in-chief**. While it was good that the police were able to attend to the edits the same day, **it raises the question as to why this could not have been achieved at an earlier point in time and further delay avoided**. **The Law Society and the Criminal Bar Association should encourage timely preparation for court, including the identification of any editing required in the video evidence so that it is achieved at as early a point as possible and further delay avoided. This could be underwritten by protocols with VVIW.**
5. The next day the case proceeded and the prosecuting barrister gave a clear and helpful introduction to the case. The judge then advised and explained the process of running the video evidence for the young witness and the jury. The PPS barrister, in addition, gave each member of the jury a copy of the transcript of the video evidence dialogue as some parts of the recording had lower audibility. Therefore, although the content of the interview appeared professional and competent it was hindered by technical quality. It would seem that the **equipment used in the CARE interview suites may be lagging behind the digital quality available in some courts. It will be important for this discrepancy to be brought to the attention of the Joint Protocol Sub-committee of Area Child Protection Committees.**
6. The same week as this case was heard, the Young Witness Worker had already been involved in two cases where a guilty plea was lodged at the commencement of the trial. The delay until the last possible moment was regrettable but the relief of the young people was palpable. With such an outcome there is the sense of exoneration and relief. However, the worker reported in the case outlined above that the cross examination was very robust, but that the jury returned a “guilty” verdict.

4. Effective service delivery and protective practice based on sound Policies and Procedures

Subsidiary Themes:

- 4(a) *to review the staffing and volunteer capacity in relation to current and prospective numbers of young witnesses;*
 - 4(b) *to identify aspects of current good practice and how these may be sustained and developed;*
 - 4(c) *to ensure that practitioners must avoid any knowledge of the evidence in the case so as to avoid contamination so that Child Witness Preparation and Support is not prejudiced.*
 - 4 (d) *to provide options, outlining advantages and disadvantages, on the type of service required for the Magistrates' and Youth Courts and how the service could be rolled out into the Magistrates and Youth Courts.*
- 4.1(a) **to review the staffing and volunteer capacity in relation to current and prospective numbers of young witnesses**

The administrative support is adequate for the current team size. Although, this does involve the Office Manager in considerable travelling between locations and the posting of typing. There was general satisfaction about the efficiency of the administration from team members and the Office Manager valued her inclusion in meetings with other administrative managers across NSPCC. The turn round time for typing, which is 28 days, seems somewhat generous, but the records produced were of a high quality. Since the Service has located two administrative staff, the original post in Antrim and the second in Londonderry, the status of the former have been regraded by NSPCC from secretary to Office Manager. These additional costs have been borne by NSPCC. However, it is necessary to recognise and acknowledge the responsibility and breadth of role in this differentiation. The expansion of the team to cover Magistrates and Youth Courts would likely bring some additional demand for administration. However, if one additional Young Witness Worker was supporting the southern area and also Belfast, it may be sustainable until the impact of undertaking Magistrates Court cases is piloted. **The funding by the Northern Ireland Office should then be revised to cover the additional administrative costs both for the existing differential and the new post.**

- 4.2 The skills and experience of the team members are very appropriate for the task, as all have brought with them front line child protection involvement.

The supervisory needs of such a team are different from the statutory arena with the turnover there of young inexperienced staff. Therefore, it is appropriate for the team to have individual supervision sessions with the

Team Manager, but in addition to contribute to Team Meetings and Practice Meetings. These give members of the team the opportunity to explore and promote ideas for service improvement. For example, the pro forma being developed by the team members to facilitate the assessment of each child.

- 4.3 The current Team Manager had not been long in post and such recognition and inclusion of staff initiative was both mature and prudent, considering that other team colleagues may well have been interested in the team leading post.
- 4.4 There is previous reference to the need and justification for the appointment of additional staff. As far as caseloads are concerned, the key concepts are fluctuation and flexibility, but this needs to be constantly measured and monitored. The Service already has demonstrated the flexible deployment of workers across all Crown Courts and will need to be organised for other courts so that deployment of staff and their respective workloads are as equitable as possible. Therefore, **in recognition that some cases do not proceed and others become more prolonged there would be value in adopting a caseload weighting scheme that considers intensity and duration of individual cases and not just overall numbers.** Some of the HSS Trusts have piloted such schemes which recognise the varying intensity and complexity of cases undertaken. For example, in child care social work the duties involved with a stable placement of a child aged 10 in a foster home and who has no contact with their natural family is very different from that of a family of 5 split between a children's home and two foster placements and where rehabilitation home to natural family is the goal. However, if the aforementioned 10 year old is placed in Enniskillen and the worker is in Belfast, there has to be some adjustment of weighting to reflect travelling time. An examination of what is preferable and applicable to the Young Witness Service should be undertaken.
- 4.5(b) ***to identify aspects of current good practice and how these may be sustained and developed***

The previous evaluation commenced with the premise that Article 3 and Article 12 of the UN Convention on the Rights of the Child should permeate all that is done with children:

"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 3.1)

"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 12.1)

“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.” (Article 12.2)

- 4.6 The case of T & V (the two boys convicted for the murder of Jamie Bulger) has continued to cause a mixture of reactions i.e. children dealt with in an adult court for a heinous crime, but yet provided with play materials and a separate room when not needed in court. Child defendants have their legal representation, but young witnesses have no dedicated formal legal support. Nonetheless, as previously stated, **each case of a young defendant should be assessed as to whether other additional support is required.**
- 4.7 In Northern Ireland, as far back as 2000, the Lord Chief Justice issued a Practice Direction (No. 2/00)⁵ in relation to children and young persons who were “young defendants”. The LCJ advised that “the trial process should not in itself expose the young defendant to avoidable intimidation, humiliation or distress. All possible steps should be taken to assist the young defendant to understand and participate in the proceedings. The ordinary trial process should as far as necessary be adapted to meet those ends.” Facilities such as pre-trial visits, regular breaks and dispensing with robes and wigs were also recommended. Therefore, the provision of “special measures” has been considered in Northern Ireland at an early stage and is equally applicable to young witnesses and to defendants. However, the latter have not yet been included in a support scheme.
- 4.8 The fact that the Service deals with prosecution witnesses only is partly based on the premise that a young defendant is receiving support from their solicitor or barrister. There is a likely inconsistency in this position, as advocates for defence and prosecution all have varying degrees of sensitivity to the needs of children who are witnesses. All children merit equal treatment. There may also be another perceived impediment for the Service to work with young defendants in that there could be a conflict of interest if they are providing support for both the alleged victim at the same time as supporting the alleged perpetrator. This cannot be either a moral or ethical argument but a logistical one. The reality is that some young people can be both a victim and contemporaneously a perpetrator. It should be feasible to appoint separate workers and volunteers for the small number of cases that want to avail of the Service. This is a Children’s Rights issue and one which the judiciary has already recognised in practice. In one case quoted in Downpatrick court, the judge requested the Court Clerk to order an extra juror’s meal and set up a separate dining area for the young defendant. This is an area of need that has already been the subject of a recommendation earlier in the report so that young defendants are provided with a service.

⁵ The Practice Direction was issued by the Lord Chief Justice on 15 June 2000

- 4.9 To achieve the best evidence from a child the Children's Evidence (NI) Order 1995 was the main vehicle to enable children's evidence-in-chief to be relayed by video recording and this also protected them from being cross-examined by the accused. Then in 1999 the Criminal Evidence (NI) Order went further to facilitate "special measures" to contain the fears or the immaturity of years or lack of capacity of a witness. These measures allowed:
- use of screens;
 - evidence through TV live link;
 - evidence given in private;
 - removal of wigs and robes;
 - video recorded evidence-in-chief;
 - video recorded cross-examination and re-examination; and
 - examination of witnesses through an intermediary.
- 4.10 There is other legislation and guidance that underscores the need for preparation and sensitivity to the needs and welfare of children and that in court they should be fully aware and have understanding of what is happening, have support from another person and not be subject to delay.
- 4.11 Two factors, therefore, prompt the provision of support to young witnesses if they are to give their "best evidence":
- that evidence would be undermined or compromised by system-induced stress; and
 - that the potentially negative effects of being a witness, particularly if they have been a victim and already suffered trauma

At the outset of the Service in 1999, NSPCC stated that "for the court system to be effective it is vital that children do not experience further emotional and psychological harm through their experience of being at court. Many children report that the process of giving evidence and their time in court was as traumatic as the abuse itself. System induced stress can seriously compromise a child's testimony. Justice will be best served if children can give reliable and truthful testimony."

- 4.12 By 1999 there was already a Young Witness Pack with booklets explaining what court would be like. Then with consultation both NSPCC and Victim Support along with the Lord Chief Justice and the Recorders for Belfast and Londonderry and the Children's Law Centre agreed that NSPCC had the relevant expertise to work with children in the court context, particularly with those who had been abused. Other agencies were also involved including Court Service, the Department of Public Prosecution (DPP)(now PPS) and the police CARE Units.
- 4.13 In September 1999 a development worker and one secretary were appointed and based in Antrim Courthouse to cover both Antrim and Londonderry Crown Courts which had TV link facilities. Considerable effort was expended on informing partner agencies across child care,

legal profession and judiciary. At that time Victim Support supplied the volunteer base and many existing volunteers still maintain their dual interest in working with Victim Support and NSPCC.

- 4.14 In 2001 the Northern Ireland Office took over responsibility from NSPCC for the funding of the Service and enabling it to expand to cover all Crown Courts. Also in 2001 the evaluation expressed the hope that CARE Unit officers would take the initiative in referring cases rather than the Service having to contact them. This inconsistency in the timing of referrals from PSNI, other than the CARE Units, is still an issue with some cases coming to the attention of the Service a matter of days before the court takes place.
- 4.15 Practitioners, both volunteers and social workers, are expected to be familiar with the roles, responsibilities and process of Criminal proceedings. They are expected to adhere to the child protection guidance of Volume 6 of the Children Order “Co-operating to Safeguard Children” (DHSSPS) and the Area Child Protection Committees’ Regional Policy and Procedures as well as to the Memorandum of Good Practice and the Protocol for Joint Investigation by Social Workers and Police Officers of Alleged and Suspected Cases of Abuse. They must also be familiar with judicial guidance on the role of independent persons accompanying a child.

They are expected to have the ability to assess how well parents are coping during the Court process and their ability to meet the child’s need and whether there is a need for further therapeutic help. They have also to be sensitive to the child’s anxiety and ways of dealing with this through the use of preparation aids and relaxation methods.

The use of therapy pre-trial is addressed as well as the effects of the Court experience and these are responded to appropriately. A good working relationship is required with the Prosecution Service, Police, Social Services etc and if necessary issues should be challenged.

This evaluation confirms that such skills are held and are well demonstrated by all members of the team, whether volunteers or staff. The Service also has had an input to developments in England and Wales where NSPCC is one of a number of sources of support to Young Witnesses. The NSPCC Service here has had a significant influence on the recently issued publication by NSPCC “In Their Own Words” 2004. This gives an account of the experience of young witnesses, including some from Northern Ireland, and has had an impact on standards and guidance.

- 4.16 Previous evaluation showed that there was variation in how children were treated in court, depending on how far the judge was acting in accord with the direction issued by the Lord Chief Justice and the Judicial Studies Board’s guidelines as regards intervention during questioning by the defence and also for the need for the child to have breaks. Other issues

highlighted were:- the use of complex language; late guilty pleas; delay in cases proceeding; and variation in the suitability of court premises in terms of integrity, security and comfort for the young witness and their family. The Judicial Studies Board has more recently provided specific training in relation to Young Witnesses and all judges in Northern Ireland are “ticketed” to preside in such cases. While the experience of children and their parents of court cases have been variable, there are indications of a gathering momentum of awareness and initiative to meet the needs of child witnesses as a result of the training.

- 4.17 The Service needs to have awareness of the rules governing the use of videotaped evidence and the opportunity and appropriate use of video recorded cross-examination. The Team have taken the initiative to learn from other areas and from case examples. A letter sent by the Area Children’s Manager to the Judiciary drew attention to the time-tabling of cases that members of the team had observed in Liverpool.
- 4.18 In Northern Ireland the Guidance for Vulnerable or Intimidated Witnesses, including Children entitled “Achieving Best Evidence in Criminal Proceedings (Northern Ireland) which stemmed from the Criminal Evidence Order 1999 and has replaced the “Memorandum of Good Practice” in interviewing, states:

Article 16 states – “Video recorded cross-examination is also to be considered admissible if the witness has already been permitted to give their evidence in chief on video prior to the court case. As with evidence-in-chief, the recording can be excluded if any of the rules have not been complied with. “

“A pre-recorded statement is usually only admissible as evidence at trial where the person who made it is “available for cross examination”. By Article 13 of the 1999 Order, however, “available for cross examination” includes being available for cross examination held in private and in advance of the trial, subject to the discretion of the court but it will be normal procedure for witnesses under 17 when the offence is a sexual one...”

Article 17 refers to the opportunity to use an Intermediary with particular skills in interviewing children – “Examination of the witness through an Intermediary, who may be appointed by the court to assist the witness to give their evidence in court. The measure is only available to witnesses who are eligible for Special Measures on the ground of age or incapacity.”

- 4.19 An example quoted from the experience of one of the Young Witness Supporters who was interviewed, involved a child who was wheel chair bound and experienced difficulties in relation to access to the witness box. Her need to use the toilet as well as the untoward event of having an epileptic fit prompted accusations by Defence Counsel that these were deliberate disruptive tactics to elicit sympathy. Had the provisions outlined been in operation, such degrading and inhumane experience would have

been avoided. This case would constitute a contravention of the UN Convention on the Rights of the Child. The situation was mitigated to some extent by the volunteer having professional health care skills.

4.20 Quoting from the publication by NSPCC “In Their Own Words” 2004 – the experiences of 50 young witnesses in criminal proceedings , including some from Northern Ireland, Lord Justice Judge states in the foreword that “Even for an adult, speaking in public about such experiences is an unwelcome duty. For young witnesses, the experience will almost certainly be an ordeal.”

4.21 CJINI carried out an inspection in 2004 on services to victims and witnesses⁶, which recommends that:

- Victims and their needs should be in the forefront as “Customers of the Criminal Justice Service”;
- Ensuring that victims have a single point of contact providing easily understood information about the Criminal Justice Service; and
- Assuring victims that all the CJS agencies work closely together and communicate more effectively.

An Inspection of Delay by CJINI carried out in 2005 noted that cases involving children were subject to greater delay. Although effort has been made by the judiciary to remedy the problem **all agencies involved should pay heed to cases in which children are witnesses and defendants and they should be flagged, fast tracked and timetabled in a similar manner to the Liverpool model.**

These findings will be reinforcing to the policy and practice of the Service and act as a further encouragement to partner agencies to reposition victims in the balance of every aspect of decision making. For NSPCC the challenge will be to nurture specific young people and parents who will be willing to act as representatives on advisory groups which can have input to policy and procedures. Consultation opportunities occur regularly and the user view should be reflected.

4.22 There has been consultation occurring in England by the CPS Policy Directorate which has prepared a document, the Children's Charter, explaining the way they deal with cases where children are involved as victims or witnesses. The Charter is for children, their parents, guardians and carers and for those who work to support children. Organisations that work with children have been involved in the preparation of the document.

⁶ “Improving the provision of Care for Victims and Witnesses within the Criminal Justice System in Northern Ireland” CJINI 2005

- 4.23 In Scotland consultation took place in 2002 and the Lord Advocate's Working Group considered a number of guidelines which included one on examination and cross-examination:

"While the purpose of cross-examination is to test the credibility and reliability of the evidence and it may necessarily involve a challenge to the child's account, practitioners are reminded that it is rarely appropriate to adopt a confrontational approach in the cross-examination of a child, particularly in the case of young children. Practitioners have a professional duty not to ask inappropriate questions. Practitioners can expect that the court will not permit inappropriate questions to be asked."
(Scottish Office)

This has been endorsed by a number of agencies, including the Law Society of Scotland who's President, in welcoming the new guidance on advocacy techniques, commented:

"Children have a special place in the justice system and it has long been recognized that they should benefit from additional support when giving evidence...everyone involved in the court process must examine their role and take steps to ensure that they are following best practice when questioning child witnesses."

The Lord Advocate has invited the Director of Judicial Studies in Scotland to produce guidance that will develop a more consistent approach to judicial intervention when questioning children is deemed appropriate. However, while it may be neither possible nor desirable to prescribe detailed rules to be followed in every case, the examination of children should be conducted "in an effective, responsible and professional manner". In pursuit of a fair trial the aim is "to cause as little anxiety and distress to the child as possible." To facilitate this, delay may be reduced by taking the child's evidence as soon as possible by commission and if necessary by video recording. Those who will undertake the examination, whether advocate or intermediary, should be introduced to the child in advance and be enabled to develop a rapport. It should also be noted that Recommendation 16 of the Lord Advocate's Working Group seeks to establish prioritization of cases and a "culture of urgency" to avoid delay.

- 4.24 Other indicators of good practice in examination, cross-examination and re-examination are:

- sensitive awareness towards the child on the day and of the need not to harm the child at any stage of the process.
- the examiner must read all of the papers in advance of the case and be fully prepared to conduct the examination.
- completing each topic and telling the child when it begins and ends before moving on to the next one.

- attempt to build a rapport with the witness and be clear when the important questions start.
- elicit facts, one question at a time. It is also unhelpful to repeat persistently a question in the same form as children can alter their response according to what they may think the questioner wants to hear.
- plain and precise words should be chosen and spoken clearly so they can be understood by the child.
- the child should not be interrupted. Sufficient time should be given to the child to allow him or her to answer the question.
- a bullying and harassing tone with a child is wholly inappropriate.
- eye contact is important with the child during the examination. This is especially the case where CCTV equipment is being used.

It is, therefore, wrong for a child to be caused to be prepared as a witness if it is not the full intention of a barrister to rely on the child's evidence. To do otherwise is an abuse of the child and wasteful of resources.

4.25 In a related theme, regarding a child's understanding, Mr Justice Gillen, Head of the Family Division of the High Court in a paper⁷ delivered to Children Law UK, a conference for magistrates, restated the provision in the Children (NI) Order 1995 "that the welfare of the child shall be the courts "paramount consideration", and that the "wishes and feelings" of the child shall be ascertained, making specific reference to the child's age and understanding. Mr Justice Gillen proceeds to examine the principle of "doli incapax" which in terms of offending behaviour by children aged between 10 and 14 allowed for distinction to be made between those who could discern between good and evil and had malicious intent as opposed to being naughty. This was rescinded in 1997 largely in reaction to the murder of Jamie Bulger. In Scotland where there have been Children's Hearings for over 30 years there is a dual consideration of both welfare and offending issues. In Northern Ireland there is the prerogative by the police to operate "restorative cautions" and the Youth Justice Agency now operate Youth Conferences where responsibility for wrong actions has been established and the process aims to provide the victim with redress and the young person the opportunity to make reparation and develop citizenship skills. Such developments in the youth justice system demonstrate how good outcomes can be achieved when children are enabled to understand and participate in the process. It is not a soft option, as one young person recently wrote of her experience of a Youth Conference in a winning entry to a poetry competition. She had found the conference more demanding in terms of accounting for her actions,

⁷ "The Frontier between Care and Justice" Gillen, J October 2005

whereas in Youth Court she could be passive and receive what was handed down with little or no participation.

- 4.26 There is a need for courts to take fully into account the developmental stages of childhood, how these affect child perceptions, levels of understanding and articulacy, and how they may be profoundly damaged by prolonged victimisation.⁸The best outcome and the best evidence will emerge when young witnesses are enabled to respect the law and those who represent it. It is right and proper to explore and to challenge the young person's account, but not to intimidate or to undermine them.
- 4.27 The overall guiding principle should be that a child is called as a witness to give evidence **only** when it is unavoidable and in the interests of justice. When a child is required to give evidence it is the responsibility of the judge to ensure there is a fair hearing for everyone, but as regards children under the age of 16 to see that as little anxiety and distress as possible is caused in the circumstances.
- 4.28 The conclusions in the NSPCC "In Their Own Words" report refers to the Judicial Studies Bench Book (2004) and the requirement for judicial vigilance at all times to guard against over-rigorous cross-examination and that advocates should "use language that is jargon-free and appropriate for the age of the child, that questions should be unambiguous and that the child is given full opportunity to answer. Here, in Northern Ireland, the impact of training and good liaison between agencies has brought improvement in the understanding of working with children. Yet the report cautions that professionals in the courtroom are likely to underestimate the full extent of communication problems encountered by young witnesses. There is among some advocates an assumption that the approach used with adults is equally valid with children. **It is recommended that consideration is given to the setting up of a panel of intermediaries to interview children and deployed at the discretion of the judge.** Such a panel could be drawn from Guardian ad Litem, PSNI CARE Unit interviewers, child protection social workers and Young Witness Workers. The deployment of such skills alongside legal advocates at a stage of video-taped cross-examination would assist with freshness of recall, accuracy and the reduction of delay.
- 4.29(c) ***to ensure that practitioners must avoid any knowledge of the evidence in the case so as to avoid contamination so that Child Witness Preparation and Support is not prejudiced.***

The feature of "independence" and ensuring that the workers and volunteers avoid knowledge and discussion of evidence with the child and family has been rigorously maintained. This means that the representatives of the Service have no involvement in the investigation, treatment or ongoing casework and do not to listen, probe or stray into these areas. Such freedom from any "contamination" prevents there being

⁸ "Resolving Childhood Trauma: A long term study of abuse survivors" Cameron, C 2000

grounds for suspecting that the young witness has been coached or influenced and the evidence prejudiced.

4.30(d) ***to provide options, outlining advantages and disadvantages, on the type of service required for the Magistrates' and Youth Courts and how the service could be rolled out into the Magistrates and Youth Courts.***

Previous chapters in this report have referred to the imperative of meeting the needs of all children who are required to give evidence to the court. A child can be apprehensive when asked to appear in court, whether in a Coroner's Court, Magistrate's Court, Youth Court or Crown Court. The scale of serving all courts can be best calculated by a mapping exercise and a pilot in a particular Division. (See recommendation in Paragraph 6.5)

5. Promoting, Protecting and Improving Well-being of children

Subsidiary Theme: To assess the effectiveness and benefit of the service in meeting the needs of young witnesses during their contact with the criminal justice system thereby reducing stress and avoiding further trauma.

Introduction

- 5.1 Safeguarding children includes the promotion of equality of opportunity, respecting diversity and ensuring equal access to services for all children. Safeguarding must not be just a social services and child care organisations' imperative and therefore only of peripheral importance to other agencies. Child protection is "everyone's business" and this concept is likely to become more prominent with current consideration being given to Area Child Protection Committees (ACPCs) being placed on a statutory footing, which would in turn require a "duty of co-operation" from member agencies.

This also will fit with the overarching Ten Year Strategy for Children and Young People (OFMDFM) which places the rights and needs of children and young people right at the heart of policy making and participation in decision making and is endorsed by all government departments.

- 5.2 The broader aims of inclusion of children who are vulnerable or "in need" are further crystallised in the Strategic Framework for Health and Social Services for Children, Young People and Families (DHSSPS) and then Children's Services Plans which are developed on an Area Board inter-agency basis. These aim at good outcomes for children which are best achieved when based upon preventive services.

Consistent with these, children in the court arena should be treated with dignity and respect and enabled to give their evidence in a format, context and timing that facilitates them being as calm, lucid and forthcoming as possible.

- 5.3 There has been a continuing question since the start of the Service, as to whether its objective of sparing the child further experience of trauma was realistic. Perhaps the volunteers' comments summarise this best when they state, that "the trauma may be reduced but it can never be eliminated". In the search for truth the adversarial system demands sufficient rigour in order to be as assured as possible that the witness is neither misrepresenting nor withholding vital information. The essence is, therefore, to avoid the extremes of either ineffective interviewing by the examiner or the other extreme of a badgering, hurtful and undermining approach.

The Judicial Studies Board has been regularly providing judges with information on interviewing children. Although it would be up to the Bar Council, a representative of the judiciary commented that he would see the benefit of offering Barristers similar training. This would form part of

their Continuing Professional Development, which would qualify for the points which accumulate to meet their yearly target.

- 5.4 In the examination of how the Service operates it was necessary to find out the views of others involved with young witnesses. First, from a parent and in keeping with the findings of the previous evaluation, the younger the child is the less they understand the process and the surroundings of the court and the number of people present. A mother of a six year old child admitted that she dissuaded the Young Witness Worker and Supporter from explaining part of the Young Witness Pack which outlined the people who would be in the court, as she knew her child would be too alarmed. Nonetheless, the Pack, adapted for Northern Ireland is a very valuable tool. The question rather, is who is in a position during the time the child is in court or Live Link to act as the “champion” for the child?

Young Witness Supporters are rightly keen to preserve their reputation as being independent and confirm that in most cases judges and barristers are able to spot when a child is distressed and needs a break in order to regain composure. However, on occasions they have felt powerless to help the child. One volunteer spoke of taking the initiative to carefully and slowly, in full view of the camera, pass a paper tissue to an upset child. The judge is in the prime position and is tuned to gauge whether the child is distressed, confused or tiring and in need of a break. However, the judge in ensuring fairness will also be watching the flow of questioning and be reluctant to cut short a particular theme and will also be conscious of not prolonging the trial. It may happen that neither the prosecution nor the judge detect distress and **it would be desirable if the volunteer who is with the child had the choice and the facility to activate an inaudible signal which would only be apparent to the judge, who would then have to exercise discretion as to whether to have a break in proceedings.** The volunteer would be liable to be questioned on the appropriateness of their action. Such a role should not be viewed as counter to the independence of their position.

- 5.5 Other representatives were asked about the extent to which the current court process creates undue stress and may even re-traumatise the young witness. Some court facilities would also still struggle to cope with a child that has a physical disability.

The question was extended further to seek views and ideas on how, while not being eliminated, further steps could be taken to make the experience as child oriented as possible, without undermining truthfulness and fairness. The consensus view on acceptable policy and practice is outlined in the following section.

Initial Stage of contact with the Service and Court

- 5.6 All young people and their parents should have several weeks in advance of the court to decide whether they wish to take up the service. This means that the police and the PPS would need to ensure that a referral is made promptly and not at the last minute.

The young person is more likely to feel reassured if they have had time to form a relationship with the volunteer and have time to take in the information (Child Witness Pack), initially through home visits and then when taken to view the court surroundings. At the same time, in terms of efficiency, the Young Witness Service should assess each referral to determine if the service is really required and at what level. Also whether there is sufficient support from family, police and prosecution or, if relevant, through defence lawyers and so conserve capacity for other cases.

- 5.7 It takes approximately one year to eighteen months for a case to get from the decision to prosecute to the hearing at court. During the, previously mentioned, recent observation visit by the Service to Liverpool Circuit Court it was noted that children's cases are "tagged" and fast tracked. Also the child is not required to attend until the morning of the second day of the hearing and they are kept waiting an average of 40 minutes. In Northern Ireland the waiting time can be between one to four days.

Court Hearing

- 5.8 Interviews and file study both confirmed that young people felt supported, even in the face of unexpected developments. They appreciate having a person dedicated to them and who was previously unknown to them and objective. The young person felt more settled and at ease. Awareness raising and events run by the Judicial Studies Board have led to the judiciary and barristers accepting "special measures" as standard. However, it is recognised that children can cope with varying levels of challenge and while it is right to assume that most young people will opt for the use of evidence-in-chief by video recording and the facility of Live Link TV there should always be the offer of choice. Should a young person prefer to be able to see the face of the accused on their screen, this should be permitted.
- 5.9 Essentially, a lot of the young person's potential need could be predicted and planned for through an initial assessment. NSPCC staff are experienced in assessment and have developed an assessment model which would assist the court in understanding each individual child's capacity and what consideration they may need. This function fits well with NSPCC's experience and expertise and subject to consultation it should result in reliable guidance and be consistent with enabling best evidence as well as enhancing protection.

Post-Trial Support and Feedback

- 5.10 The provision of follow-up contact is part of the Service Level Agreement, but the capacity to deliver a consistent support post-trial has sometimes been limited by the need to attend to other cases. Victim Support (NI) have on occasions helped at that stage by supporting the parents who remain at court to hear the remainder of the trial, when sometimes the young witness has returned home. This can also be an anxious time and the additional source of support is valued. It would be preferable in selected cases, however, for continuity to be provided by NSPCC and not just to join the family at the point when the verdict is issued. Members of the NSPCC team are often frustrated when they and the family are not notified of the time when sentencing is to take place. An example was quoted of a girl in “looked after” care who only found out about the sentence having already occurred during discussion at a case review in the children’s home.
- 5.11 Post-trial contact has often depended on a letter to the child and family, which invites uptake of counselling and therapeutic services. The letter also asks for a questionnaire to be completed but the return rate is small. This is understandable because the young person and family are usually only too glad to get the court experience over and leave any reminders of the episode behind.

The Young Witness Service has admitted that this remains a gap in the completeness of their work. However, they take comfort from the fact that both volunteers and workers receive thank you cards and verbal expressions of appreciation. The most notable indicator is that there have never been any complaints.

The 17 year old girl, who was interviewed confirmed that she was benefiting from counselling sessions, which she attended with a separate NSPCC team.

Nonetheless, the current lack of feedback leaves unanswered questions and the gap needs to be filled. Particularly the views of young people would be valuable and **it is not unusual for their natural inertia to require an incentive to complete an interview or questionnaire.** Selective visiting by the Young Witness Volunteer and the offer of a music token or “High Street” shopping voucher would demonstrate how important the Service views user experience. It may be that other agencies would wish to pick up on factors that are relevant to their attention to quality and equality.

Representatives of various agencies were asked about how they would feel if their own child was involved in giving evidence in an abuse case. It was quite significant that they invariably voiced reservation and some would have withheld co-operation. But all acknowledged, nonetheless, the importance of establishing truthfulness so that an innocent accused person should not be disadvantaged.

- 5.12 Efficiency, economy and compliance with the UN Convention on the Rights of the Child would all be improved if there was an earlier indication that a trial may fall or a guilty plea is being lodged. Second, the flagging and fast tracking of cases involving young witnesses would help with the matching and allocation of a Young Witness Supporter so that full preparation can be commenced.

The role of the Young Witness Worker should remain essentially one of support to the volunteer and of communication and liaison between the young witness and their family members, the PSNI "Office-in-charge", the PPS barrister and the Court Service staff. However, alongside this core function there could be the task of assessment of the child and **consideration should also be given to designating the worker as an "officer of the court" similar to the status of the Guardian ad Litem.** This would empower the worker to communicate information to the court about the witness and their capacity, not just in preparation for the start of a trial but also how the witness is affected by any particular events during the process of the case.

- 5.13 The NSPCC Young Witness Service has sound structure, management, standards, procedures and practice. It demonstrates a quality service which is generally applauded and which will continue to be needed in wider court settings. The opportunity, however, should be taken:
- to revisit the Pigot Committee recommendations, particularly the implementation of video recorded cross-examination which is contemporary with the video evidence;
 - for NSPCC to continue flexible deployment of staff; and
 - for agencies involved in the courts to co-operate in planning for efficiency and reduction in delay across the court settings.

Part of the efficiency development should have spin off for the Young Witness Service, which in turn may make capacity available for improved cover to Magistrates' Courts and Youth Court. This could be a pilot stage. Therefore, **it is recommended that the Young Witness Service, with the help of Court Service, PSNI and PPS provide figures about children who appeared as witnesses over the past year and also then from September 2006 (1) assess, for a period of three months, the potential demand for commencing a service in Magistrates Courts. (2) Appoint during this period an additional Young Witness Worker (either seconded or on a fixed term contract) and an additional secretary to facilitate the operational twelve months stage of this eighteen month pilot commencing January 2007 and after the preparation and training of workers and volunteers. Then (3) the final three months should be used to evaluate whether the service was appropriately targeted and effective and once this is confirmed to ratify and recruit permanent staff.**

6. Conclusions and Recommendations

To make specific, time bound recommendations to address any issues found with the service that would improve the effectiveness of the service.

“In all actions concerning children whether undertaken by public or private social welfare institutions, courts of law, administrative bodies or legislative bodies, the best interests of the child shall be the paramount consideration.” Article 3 UNCRC

6.1 The United Nations Convention on the Rights of the Child sets out minimum standards against which to test law, policy and practice which affects children. All dealings with young people in the courts should be more than child sensitive and be “child centred”.

To assess the worth of any service organisation there are two criteria:

1. The preservation of what is good and is appropriately meeting needs, and
2. The identification of what should be done to accommodate necessary change for the future.

6.2 Understanding children, their experience and their needs is at the core of them being facilitated to be effective and truthful witnesses. Irrespective of whether they are victim or a defence witness or even a victim turned perpetrator they will invariably have experienced trauma. This is a strong argument for them to receive more than due consideration and that the balance should tip in their favour.

6.3 Without exception there was endorsement and praise for the NSPCC Young Witness Service. There were, however, problems as well as plaudits but most of the former related to other services and how their role had led to a lengthy and cumbersome process in reaching an outcome. There was criticism of social services because of a succession of different social workers involved with the child and family over the period waiting for the court case. There was also criticism of the justice system in the past for not only the slow pace of cases, but allowing participants to hold back a guilty plea until the commencement of the trial. Since the ruling of the Court of Appeal with regard to discount for early guilty pleas and recent changes to legal aid it is good that there should be a reduction in delay. Fewer children should now have to give evidence and their access to and benefit from counselling will be advanced.

Strategies for the Future

6.4 In relation to children and young people who are required to be witnesses in court there are differing hierarchy of needs. There are:

- the needs and indeed the “best interests” or “rights” of the child;
- the needs of the child’s parents to see their child treated reasonably;
- the need of the accused person for a fair trial; and
- the needs of the court system and its participants for proper process.

The different needs and the less than predictable process of a case at court often results in some of these needs being subsumed and in some instances being neglected. The role of the NSPCC Young Witness Service is to provide the young witness with objective support and this study has examined both the extent and quality of what has been achieved. It must also be recognised, however, that what may be perceived as tipping the balance in favour of the young witness may jeopardise the human right of the accused to a fair trial as provided in Article 6 of the European Convention on Human Rights. While concluding that the service has become indispensable and is much valued the future will present challenges in meeting the needs of a wider group of young witnesses and continuing to seek to facilitate them giving their best evidence in a context that reduces duress without endangering truthfulness. There must be confidence that for Young Witnesses justice and mercy can coincide.

- 6.5 NSPCC, as stated earlier, has held the view that they have no “economic, strategic or selfish” hold on this service. But it does fit well with the NSPCC ethos and with their fundraising potential. There appears to be no purpose in altering the profile or the identity of this service and the esteem in which it is rightly held. Rather, the attention needs to be focused on the way it is resourced and organised and also in how, despite significant advances, the adversarial legal system operates and continues to treat children. There are provisions within legislation and guidance which should increasingly spare children some of the delay and also further reduce anxiety or trauma. It will take continued concerted corporate will to address and remedy the problems, and the impetus for this will need to be led by the Criminal Justice Board in partnership with the Criminal Bar Association and in consultation with the judiciary. However, it remains fundamentally a safeguarding and children’s rights issue and as such those who are involved in the Children Order Advisory Committee, the Area Child Protection Committees, Children’s Services Planning and the Framework for Health & Social Services for Children, Young People and Families will have a keen interest in encouraging continuous improvement.
- 6.6 Solutions are needed that harness a multi-disciplinary and inter-agency effort. The Criminal Justice Review, the Reform of Public Administration and the findings from inspections are driving the agenda for responsiveness, accountability, equality and lay participation. The NSPCC Young Witness Service is a model which through informing, supporting and alleviating stress achieves the protection of vulnerable children and the engagement of users and lay people.

“Our culture’s view of childhood is built upon images of sweet-smelling babies, chubby hands dragging teddies, pony rides, science projects, piano lessons, prom dresses and graduation ceremonies. Sadly, for many children, the list would be more accurate if it included broken bones, chipped teeth, black eyes, burns, unexplained vaginal or anal infections, night terrors, empty stomachs and lonely hearts. (Everett, B and Gallop, R “The link between childhood and mental illness: Effective Interventions for Mental Health Professionals”)

It is not just the trauma of abuse that gives rise to court cases that is a cause for concern, it is the unseen cost of omission that is also worrying and children are hurt in the process. The Young Witness Service in partnership with others in the Criminal Justice System, who are undoubtedly well intentioned, have been moving the threshold ever higher and children are better protected and helped to be effective witnesses. There is much to congratulate the court system about and celebrate since 1999 in how young witnesses are treated and how some out-moded practices have already been amended or replaced. But there is still further to go.

Funding of the Service should, therefore, be adjusted to enable cover for cases involving children in all courts. Eligibility, however, would be selective based on self-selection and objective criteria.

(Recommendations in relation to this report are to be found in highlighted text and are first listed at the end of the executive summary at the beginning of this report.) These recommendations are repeated here in a sequence which relates to the attention sought from each lead agency.

Recommendations (Attributed)

NSPCC Young Witness Service

2. Measuring outcomes is a crucial area in terms of indicating effectiveness and value for money. Current efforts will have to be developed further and additional criteria will have to be set. (Paragraph 1.10) Action: YWS
7. In serious abuse cases it is best that the two roles of Young Witness Worker and Young Witness Supporter are available at the same court. In other cases, two Young Witness Supporters could be teamed together, where the assessment suggests that level of complexity is appropriate. (Paragraph 2.4) Action: YWS
8. A firm protocol must be established with both PSNI and PPS to ensure that referrals are immediate. (Paragraph 2.6) Action: YWS, PSNI & PPS

12. It is important to reinforce the need for feedback from children after a court case and to build certain additional expectations with each family into the agreement to use the service that binds them, as far as possible, to one post trial debriefing visit. (Paragraphs 3.4 & 5.11) Action: YWS
14. The working relationship with Victim Support needs to be reviewed both at an individual court level and at strategic level in order to maximise cover and economy of effort, including in recruitment and training. A protocol, which is pending, will help. (Paragraph 3.7) Action: YWS & VS(NI)
18. Equipment used in the CARE interview suites may be lagging behind the digital quality available in some courts. It will be important for this to be brought to the attention of the Area Child Protection Committees. (Paragraph 3.14 (5)) Action: YWS to refer to ACPC Joint Protocol
20. In recognition that some cases do not proceed and others become more prolonged, there is a value in adopting a caseload weighting scheme that considers the intensity and duration of individual cases and not just the overall numbers. (Paragraph 4.4) Action: YWS in agreement with NIO
26. It is recommended that the Young Witness Service, with the help of Court Service, PSNI and PPS provide figures for the past year and prospectively gather data for three months commencing September 2006. This would be to gauge the potential demand for commencing a service in Magistrates/Youth courts from January 2007. At the same time there would be the appointment of a further worker (either seconded or on a fixed term contract) and an additional secretary for two years to assist with the expected referrals. Then following twelve months of operation there should be an evaluation completed by the end of March 2008, as to whether the service was appropriately targeted and effective and how the further roll-out should proceed. (Paragraph 5.13) Action: YWS, Court Service, PPS & PSNI

NIO Community Safety Unit

5. The NIO should proceed immediately to establish a working group to focus on how cases in the Magistrates/Youth Courts can be best served. The Group should incorporate Court Service, Public Prosecution Service, judiciary and police. It could also focus deployment and the location of Crown Court cases involving children in the light of several influences including the findings of other inspections and the impact of the Review of Public Administration. (Paragraph 1.14) Action: NIO
3. To manage the existing Crown Court work, an additional full time Young Witness Worker should be appointed forthwith and be predominantly based in Craigavon and the hours of the part time worker in Belfast increased from 23 to 30 per week. This revised staffing structure and deployment should be subject to further evaluation within 3 years in order for variables to be worked through in relation to case work and

administrative demand at various locations. (Paragraph 1.12 & 1.16)
Action: NIO

6. The roll-out to other courts and the consequent expansion of the service will involve the recruitment and training of additional workers as well as more members for the volunteer team. This will place additional demands on the administrative staff and an additional secretary should be appointed and be operational mainly from Craigavon in time for the commencement of the pilot of the extended service at the end of 2006. (Paragraph 1.16) Action: NIO
13. There is a need to improve the awareness of the Service among various professions while they are involved in basic training and to reach students at undergraduate, graduate, police college venues and as part of Continuing Professional Development. The Service would require additional resources to provide such training. (Paragraph 3.6) Action: NIO
19. The funding by the Northern Ireland Office should be revised to cover the additional administrative costs both the existing differential and the new post. (Paragraph 4.1) Action: NIO
27. Funding of the Service should be adjusted forthwith to enable cover for cases involving children in all courts through an initial pilot and subsequent roll-out to Magistrates and Youth Courts. Eligibility, other than in Crown Courts, should be selective based on referrals received, self-selection and upon an objective vulnerability needs analysis completed by NSPCC. (Paragraph 6.6) Action: NIO

The Criminal Justice System

1. The Criminal Justice Board should monitor the outcome of a Court of Appeal judgment on encouraging an earlier (guilty) plea. (Paragraph 1.8)
Action: Criminal Justice Board
4. The Court User Group and the Vulnerable Victims and Intimidated Witnesses Group could be the appropriate mechanism to progress collaborative use of amenities and volunteers, not just for Belfast, but across the whole estate especially as Witness Services are rolled out. . (Paragraph 1.13) Action: VVIW and Court User Groups
9. It would be preferable, in the interests of avoiding delay, to facilitate a Pre-trial Direction Hearing in Magistrates' Court where it can be established whether the accused will plead guilty. (Paragraph 2.8) Action: PPS
10. It is recommended that case files, where child witnesses are involved, should be processed without delay from the time of investigation and charging to processing for prosecution. (Paragraph 2.8) Action: PSNI and PPS

11. NSPCC staff have knowledge in child development and are experienced in child protection assessment. It is recommended that the draft assessment programme developed by the Team in order to communicate the child's level of maturity, cognitive ability, vulnerability and coping capacity, is considered for adoption by VVIW and implementation by the stakeholders. (Paragraph 3.2) Action: VVIW, PSNI and PPS
15. Different court venues can be particularly busy from time to time and flexible deployment of staff has managed to meet these demands. However, if it were possible to concentrate child abuse cases in a smaller number of Crown Courts it could bring the benefits of specialisation. (Paragraph 1.14 & 3.11) Action: PPS and Court Service
16. An approach should be made to PSNI and the PPS to explore why there are no children from ethnic minority backgrounds coming through as witnesses. (Paragraph 3.13) Action: PSNI and PPS
17. The Law Society and the Criminal Bar Association should encourage timely preparation for court, including the identification of any editing required in the video evidence so that it is achieved at as early a point as possible and further delay avoided. This could be underwritten by protocols with VVIW. (Paragraph 3.14 (4)) Action: Criminal Bar Association and the Law Society
21. The NIO should facilitate an assessment of the needs of young defence witnesses and young defendants and consider a set of criteria for assisting them and to determine whether this should come from the Young Witness Service or elsewhere and quantify and identify the demand for the use of additional interviewing and live link facilities. (Paragraph 4.6) Action: VVIW and Criminal Justice Board
22. The Inspection of Delay by CJINI noted that cases involving children were subject to greater delay. While effort has been made by the judiciary to remedy the problem, cases in which children are witnesses (and also defendants) should be flagged, fast tracked and timetabled in a similar manner to the Liverpool model. (Paragraph 4.20) Action: Court Service
23. It is recommended that depending on criteria of vulnerability, consideration is given to the setting up of a panel of intermediaries skilled in interviewing children and deployed at the discretion of the judge. (Paragraph 4.28) Action: PPS

24. It would be desirable if the volunteer who is with the child in Live Link had the choice and the facility to activate an inaudible signal which would only be apparent to the judge, who would then have to exercise discretion as to whether to have a break in proceedings. (Paragraph 5.4) Action: Court Service

25. The concept of designating the Young Witness Worker as an “officer of the court”, similar to the status of the Guardian ad Litem, should be explored. This would be to recognize the role both with assessment of the child’s capacity and also keeping the court informed of how the young witness is affected by various factors that occur during a trial. (Paragraph 5.14) (See also recommendations 2, 10 and 22) Action: Court Service

Appendix 1

TERMS OF REFERENCE

18 MONTH EVALUATION OF THE NSPCC YOUNG WITNESS SERVICE IN THE CROWN COURT

AIMS AND OBJECTIVES

1. To conduct an evaluation of the existing NSPCC Young Witness Service which has been available in all Crown Courts from 1 October 2003. The evaluation will feed into policy considerations on the Young Witness Service and decisions as to how the service will be rolled out into other courts.

ISSUES AND SCOPE

2. The following issues and scope should be applied:
 - To evaluate to what extent the service has performed against the objectives agreed in the Service Level Agreement and assess the effectiveness of the service in meeting the needs of young witnesses during their contact with the criminal justice system thereby reducing stress and avoiding further trauma;
 - To review the staffing and volunteer requirements and current capacity of the Service based on Crown Court workloads. The previous recommendations made in 2002 should also be considered as part of this process and revised baselines on the number of young witnesses supported per worker should be recommended;
 - To consider the appropriateness and scope of the role of the Young Witness Worker and the role and scope of the volunteers;
 - To consider the proposals submitted by the NSPCC to the NIO regarding additional staff and locations and comment on their appropriateness in relation to actual and projected need. (see Annex A);
 - To investigate the extent to which the service has benefited witnesses;

- To assess the views of stakeholders and parents/carers on the impact and benefits of the service;
- To comment on whether delivery of the service has provided value for money;
- To provide options, outlining advantages and disadvantages, on the type of service required for the Magistrates' and Youth Courts and how the service could be rolled out into the Magistrates and Youth Courts;
- To identify aspects of current good practice and how these may be sustained and developed; and
- To make specific, time bound recommendations to address any issues found with the service that would improve the effectiveness of the service.

USE AND USERS OF THE RESULTS

3. The NIO will use this evaluation to assess the effectiveness of the current service and to consider future roll out of the service.

APPROACH

4. We would expect, as a minimum, adherence to the requirements specified in this document and the approach to include:
 - Consultation with the service provider (staff and volunteers);
 - Consultation with other Criminal Justice agencies and others within the court process;
 - Interviews with service users;
 - Time spent observing how the service is managed and delivered;
 - Assessment of proposal made for additional staff etc by NSPCC;
 - Liaison with the Criminal Justice Inspectorate;
 - To study written records including case files, log books, complaints records in respect of children supported; and
 - Collation and analysis of relevant statistics.

5. The evaluation should by no means be limited to the above issues and you are encouraged to detail any additional issues you feel may provide added value and therefore should be addressed in the evaluation.

OUTPUTS AND REPORTING ARRANGEMENTS

6. A project plan with timescales should be provided on the commencement of the evaluation giving details of the proposed work programme.
7. The evaluation should be carried out in July-September 2005. The final written report, which must be agreed with the NIO and NSPCC, will draw clear and logical conclusions from the work carried out and shall contain a summary of recommendations.
8. A verbal update will be provided to the NIO at the mid point of the evaluation.
9. The draft final report will be submitted to the NIO by the end of October 2005 and the final report will be submitted by the end of November 2005.
10. Any deviation from these timescales must be agreed with the NIO and NSPCC.

NIO MANAGEMENT

11. Representatives from the NIO and the NSPCC will meet with the inspector at the outset of the project to clarify the brief and the approach to be taken by the inspector. They will be available during the time of the review to discuss any obstacles that arise and will meet again with the inspector to agree the final report.

NORTHERN IRELAND YOUNG WITNESS SERVICE

**ACHIEVING BEST EVIDENCE YOUNG WITNESS
ASSESSMENT FORM**

NAME OF YOUNG WITNESS:

STATUS: VICTIM/WITNESS

NAME OF DEFENDANT:

BILL NO:

DETAILS OF CHARGES:

FORM COMPLETED BY:

DATE:

**WORKING AGREEMENT INFORMATION PROVIDED TO YOUNG
WITNESS AND CARER**

Description of Service we Provide

Boundaries regarding evidence

Confidentiality of information

Access to personal records

Explanation of complaints procedure

Working agreement discussed and signed

Ethnicity and Language

YOUNG PERSON'S NEEDS

How does the Young Witness feel about having to give evidence at Court?

Does the Young Witness have any specific issues or concerns that are worrying them?

Any intimidation issues (potential or otherwise)?

Is the Young Witness receiving treatment or pre-trial therapy?

Which Special Measures does the young person think they need to help them give their best evidence?

EDUCATION

Specific educational needs (as defined by):

Reading level/Concentration span

Impact on ability to give evidence

HEALTH

Physical/Mental Health

Medication

Impact on ability to give best evidence

LEGAL ISSUES

Is the young person subject of any Court orders / CPR? Are any Contact arrangements in place?

FAMILY AND SOCIAL RELATIONSHIPS

Family members?

Any significant others?

Is child living with parents/carers? If not, state with whom Young Witness resides.

TRIAL DAY PRACTICALITIES

Are parents/carers able to take time off from work to attend/bring young person to preparation sessions/court?

Is the parent/Carer a victim/Witness?

OTHER RELEVANT INFORMATION

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