

Use of hearsay and professional witness evidence

the Serious Organised Crime and Police Act 2005 make it easier for victims of anti-social behaviour to attend court and give evidence in person. The Act permits the 'special measures' that were formerly reserved for criminal hearings to be used in anti-social behaviour cases. This will enable witnesses who wish to give direct evidence to do so in private, from behind a screen or by video link.

Vulnerable witnesses are all witnesses aged under 17 years or whose quality of evidence is likely to be diminished because they have a mental disorder or learning disability or have a physical disability or physical disorder.

Intimidated witnesses are witnesses whose quality of evidence is likely to be diminished because they are in fear or distress about testifying. It is for the court to decide whether the quality of a witness's evidence is likely to be diminished.

Witness development and support

The principal purpose of an order is to protect those who directly experience antisocial behaviour. The protection provided should include, where necessary, those who are personally targeted by perpetrators, other witnesses who see this happen and the wider local community. It follows that engaging, developing and supporting these individuals and groups of people must be a primary concern for any agency managing a case and seeking to use these orders. Without the initial complaint of the witness, the agency will have no detailed knowledge of the problem. Without their continuing engagement, there will be no evidence on which to build a case.

Local strategies to promote the use of orders should have the interests of the witnesses and the community at their centre. The welfare and safety of residents whose complaints form the basis of any action must at every stage of the process be the first consideration. The use of hearsay evidence and professional witnesses is one way of achieving this (see section on hearsay evidence above).

While professional witnesses may have a duty to engage, lay witnesses can only be expected to do so if they can see a point in doing it; if the agency is credible and authoritative; if the case work is visibly focused on the interests of the witnesses; if the order protects them and stops the anti-social behaviour quickly and effectively; and if the case manager offers them well-informed, practical personal support throughout the period of evidence collection, court proceedings and afterwards, as necessary.

The experience of witnesses must be given value and significance by case managers. The status and importance of witnesses in case development must be made clear. They should be provided, as appropriate, with:

- a simple method of capturing information - diaries, video/audio recording facilities and translation services;
- ⑩ information on services and procedures - about the way witness support services work, service access points, telephone numbers and the name of the case manager working on the case;
- ³ an active and respected role in developing the case - the case strategy should reflect their needs, particularly for reassurance about their safety, and they should have control over any information they provide, including agreeing the form in which it will be provided to the defence;
- ⁹ protections for themselves and their family - security for door and window access, emergency contact equipment, panic alarms and mobile phones may all be appropriate in particularly serious cases;
- * regular contact from the case manager, including telephone contact as agreed with the witness (daily, weekly, etc);
- ⁹ supports for any court appearance - a briefing on court procedures and what they should expect, the presence with them in court of the case manager, transport to and from court (if necessary) and a secure space separate from perpetrators in which they can wait to be called; and
- ⁹ supports after a court appearance - speedy delivery of information, copies of any orders which have been made and an explanation of the implications of the court decision.

Each key witness should also be engaged in a face-to-face meeting with the agencies, including those who do not wish to give a ' statement or attend court. Agencies should publicise positive results - one way this can be done is through leaflet drops (these can be cost effective when targeted appropriately).

Witness support is an area where the benefits of partnership working can be clearly seen: local authorities and the police have different skills and resources and can combine them to give well-rounded support.

Methods of supporting witnesses currently being used by agencies also include:

- ⁹ enclosing a letter with the summons advising the respondent to stay away from witnesses;
- ⁹ a higher police presence in the vicinity;
- ⁹ giving witnesses the personal mobile telephone number of a named police officer who can be called if they are threatened;