



**CRIME VICTIMS' RIGHTS – THE RIGHT TO CONFER
WITH THE PROSECUTOR – DOES IT AFFECT OR
REINFORCE PROSECUTORIAL INDEPENDENCE
AND ACCOUNTABILITY?**



Confer with Prosecutor

- Meeting the prosecutor in advance or on the day of their appearance and having their questions answered, can help a witness to feel prepared for their court experience and able to give their best evidence.
- Providing assistance before and at court is especially important where witnesses are vulnerable and/or intimidated.



Best evidence

- The purpose of special measures is to enable the witness to give the best evidence they can
- Without discussing the options with the witness the prosecutor will not be able to assist the Court.

Special measures



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- These are available for all witnesses – prosecution, defence and even the accused.
- Range of measures available
 - Recorded evidence in advance
 - Video links
 - Screens
 - Closed courts
 - Supporters



CPS Commitment

“The CPS is committed to treating witnesses at court with respect and sensitivity. Whenever possible we should introduce ourselves and try to put nervous or vulnerable witnesses at ease and explain court procedures. We should keep all victims and witnesses informed about delays and ask for them to be released as soon as possible after giving evidence”.

*R v Momodou & Limani [2005] EWCA
Crim 177; [2005] 2 All ER 571; [2005]
2 Cr App R 6 (Court of Appeal)*



- *“48. ...Training or coaching for witnesses in criminal proceedings...is not permitted.....The witness should give his or her own evidence, so far as practicable uninfluenced by what anyone else has said, whether in formal discussions or informal conversations. The rule reduces, indeed hopefully avoids any possibility, that one witness may tailor his evidence in the light of what anyone else said, and equally, avoids any unfounded perception that he may have done so.....The risk that training or coaching may adversely affect the accuracy of the evidence of the individual witness is constant. So we repeat, witness training for criminal trials is prohibited.*



R v Momodou con't

49. This principle does not preclude pre-trial arrangements to familiarise witness with the layout of the court, the likely sequence of events when the witness is giving evidence, and a balanced appraisal of the different responsibilities of the various participants...Witnesses should not be disadvantaged by ignorance of the process, nor when they come to give evidence, taken by surprise at the way it works. None of this however involves discussions about proposed or intended evidence. Sensible preparation for the experience of giving evidence, which assists the witness to give of his or her best at the forthcoming trial is permissible.....Nevertheless the evidence remains the witness's own uncontaminated evidence.”

Victims



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Scottish Prosecution Guidance

“If you are the victim of a crime, we understand the impact this can have for you, your family and your way of life. That’s why you have a right to ask us for **information** about the decision made in your case, to have a **say** in what happens, and to ask us to **review** some decisions not to prosecute when the decisions can be changed.”

Victim's right to review



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- If you are the victim in Scotland, you have a right to ask the Prosecutor to review a **decision not to take action** in the first place or to stop or **discontinue a case** after a case has started in court. (Scotland)
- Victims have the right to seek a review of the decision not to prosecute or to terminate all proceedings (England and Wales)

Who can apply for review?



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A **victim** is defined as someone who has suffered harm, including physical, mental or emotional harm or economic loss directly caused by a criminal offence. This includes family members of a person whose death was directly caused by a criminal offence.

Businesses, companies and other organisations which are victims of a crime are also included under this policy.

If the victim asking for a review is a **child** under 12 years old, the application should be made by a parent or carer. If the victim is aged between 12 and 18, they can apply for a review themselves if they wish or can make an application through a parent or carer.

**Interfere with independence?
Increase accountability?**

