

The Witness Assistance Service



This fact sheet summarises the Ask LOIS webinar on this topic, presented by Lee Purches, Manager Witness Assistance Service NSW, Office of the Director of Public Prosecutions on 23 June 2015. This webinar can be viewed for free at www.asklois.org.au/webinars/past-webinars

This factsheet looks at:

- What is the Witness Assistance Service (WAS)?
- Practical tips for supporting a client who has been a victim of crime

What is the Witness Assistance Service (WAS)?

- WAS is an integral part of the Office of the Department of Public Prosecutions (ODPP) and WAS Officers work as part of the prosecution team to support vulnerable witnesses through ODPP prosecutions in the NSW criminal justice system
- The ODPP (Office of the Department of Public Prosecutions) is an independent prosecuting authority that prosecutes serious indictable offences in NSW. The ODPP does not investigate crimes but takes over the prosecution from the police
- The Aim of the WAS is to minimise the stress or re-traumatisation related to involvement in the criminal justice process and to enable witnesses to have the opportunity to give their evidence to the best of their ability, in the interest of justice
- The key function of the WAS is to work in a professional partnership with ODPP Lawyers, Crown Prosecutors and external agencies and to assist the ODPP in meeting its obligations under the Charter of Victims Rights

Who Makes Up the Witness Assistance Service?

- Solicitors Executive – Deputy Solicitor (Legal)
- Manager Witness Assistance Service
- WAS Administrative Officer
- Senior WAS Officers
 - Newcastle, Parramatta & Sydney
- Aboriginal WAS Officers
 - Sydney, Newcastle & Dubbo
- Generalist WAS Officers

Location of ODPP Offices

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|----------------|--------------|-------------|
| • Sydney | • Wollongong | • Newcastle |
| • Parramatta | • Wagga | • Lismore |
| • Campbelltown | • Dubbo | |
| • Penrith | • Gosford | |

Priority Matters for WAS

- Sexual Assault – child, adult and historical
- Matters involving death – homicide, manslaughter & dangerous driving.
- Domestic violence related matters
- Other serious personal violence matters such as child physical assault and other matters with vulnerable witnesses.
- Vulnerable Victims and Witnesses



WAS prioritises the following victims and witnesses:

- Children and Young people aged under 18yrs
- People of Aboriginal or Torres Strait Island descent
- People with a disability (cognitive, physical & sensory)
- People with mental health issues
- Older people
- Victims suffering severe or chronic post trauma symptoms
- Priority Witnesses which may include
 - People from Culturally & Linguistically Diverse Backgrounds (CALD) where this is a barrier
 - People with limited literacy skills
 - People from rural or remote areas
 - People with health considerations
 - People experiencing financial hardship
 - People with limited support networks

Ways WAS assists witnesses

Assessment

- Assessing needs of victims and witnesses (psycho-social assessment; special needs)

Information

- About the legal process, the ODPP & WAS
- On the Charter of Victims Rights
- WAS is an important contact point for victims and witnesses throughout the legal process

Referral

- For ongoing counselling, welfare & support
- Court support

Crisis Counselling

- About the impact of the legal & court processes
- Relating to current stressors and on developing coping strategies
- Court events and outcomes

Liaison & Consultation

- Communicating with Crowns and solicitors our contact with victims and witnesses, including special needs, communication barriers etc.
- Attending conferences when required:
 - Introductory conferences
 - Charge negotiations
 - No further proceedings

Interagency

- WAS liaises with police, sexual assault services, HVSG, Victims Services, DV services, Sheriffs, courts and other agencies about:
 - Victim and witness needs
 - Case management and co-ordination of court preparation, court familiarisation and court support
 - Collaborative approach to supporting victims and witnesses.

Court Preparation

- Educational preparation e.g. role of each person; trial / hearing process
- Preparation for giving evidence and cross examination
- Emotional preparation and coping strategies
- Practical preparation
- Process vs. Outcome
- Court preparation resources: videos, handouts, court maps
- No evidence discussed & no coaching



- Never make promises

Court Familiarisation

- CCTV and RWS
- Court complex (court room, waiting areas etc.)
- Watching parts of a trial

Co-ordinating Court Support

- Ensuring support is available for victims and witnesses
 - Counsellors or support workers
 - Family or friends
 - Volunteer court support services

Post court or outcome follow up & debriefing

- Sentencing and Victim Impact Statement information
- Victims Register information
- Victims Services
- Appeals
- Further information and referrals

Referrals to WAS

- Pro-active Early Referrals – the WAS is referred all ODPP matters through a database. WAS workers flag matters they believe may need WAS assistance and they will try to make contact with the witnesses. This is managed by the ‘WAS Best Practice Referral and Case Management Protocol’
- Referrals can also be made by contacting WAS on **(02) 9285 2502**. Referrals can be made by:
 - Initiated by victim or witness
 - Referral by Solicitor / Crown Prosecutor
 - Referral by external agencies; sexual assault services, HVSG etc.

Working together

The WAS aims to work alongside other support services and to work collaboratively. The WAS can do this through:

- Referral of victims for support and counselling;
- Gain consent to exchange information;
- Provide updates on progress of matter;
- Information regarding conferences and significant court dates;
- Case planning, court preparation, court familiarisation and court support;
- Joint work where appropriate

Important information to be aware of about the ODPP and WAS

- The ODPP must be prosecuting the matter (not the police)
- WAS cannot be involved until the offender is charged and the matter has been referred to ODPP for prosecution
- When referring a victim to WAS it is helpful to know the name of the matter (i.e. the name of the accused person). There may also be an ODPP CASES number on correspondence received
- WAS also works with non-offending parents or carers of a young person or person with a disability
- The ODPP has obligations under the Charter of Victims Rights and KPIs under Charter Code of Practice
- The ODPP has a referral protocol for referring victims to the Sexual Assault Communication Privilege Team at Legal Aid NSW
- WAS does not aim to duplicate other services but rather work in partnership to ensure the victim is adequately supported



- WAS has limits to confidentiality - WAS must disclose to the ODPP solicitor and Crown prosecutor anything that may be relevant to the prosecution
- ODPP disclosure policy: All evidence collected by the police is provided to both the ODPP and the defence. Any information the ODPP has that may impact on the prosecution must be disclosed to the defence.
- WAS as part of the ODPP must abide by the underlining principles of the criminal justice system:
 - The accused person has a right to silence
 - Presumption of innocence
 - Burden of proof is on the prosecution > “Beyond Reasonable Doubt”
 - An accused person’s right to a fair trial

Boundaries of the WAS role

- WAS officers are part of the ODPP. We recognise the paramount importance of the independent nature of the Office
- We are not victims advocates - maintain objectivity
- We are not counsellors or therapists for victims
- We do not ‘coach’ victims or discuss evidence and are aware of contamination issues
- WAS Officers are aware of the ODPP disclosure policy
- Limited self disclosure – no personal, political disclosure
- We are mindful of conflicts of interest
- Our contact with victims and witnesses is limited to the duration of the criminal justice process

Practical tips for supporting victims of crime

- Acknowledge experiences, feelings and worries
- Explain role of the ODPP
- Explain legal process and time frames to assist with realistic expectations
- Explain provisions available
- Liaise with the WAS Officer
- Find out what is happening with the case
- Ensure victim has access to information, court preparation and court support
- Focus on strengths and resilience
- Focus on outcomes that are independent of court outcomes
- Don’t make promises that can’t be met

Provisions for sexual assault complainants

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| • CCTV / screens | • Closed courts (discretionary) |
| • Support people | • Pre-trial hearings (case management) |
| • Restrictions on improper questions | • Non publication orders (name, evidence etc.) |
| • No cross examination by unrepresented accused | • Use of electronic recordings or transcripts in re trials |
| • Sensitive evidence provisions | • Communication aids |
| • Sexual assault communications privilege | |

Additional provisions for vulnerable persons:

- Electronic statements played as evidence in court
- Paper committals only (vulnerable person barred from giving evidence at committal)
- Wishes of the vulnerable person to be taken into account



Provisions for victims of domestic violence complainants

Criminal Procedure Amendment (Domestic Violence Complainants) Act 2014 (No 83)

- Electronically recorded statements can be played wholly or in part as evidence in chief (s 289)
- Complainant must be available for cross-examination and re-examination orally in court or by alternative arrangements permitted under any NSW Act (s 289F(5))
- Complainant can give evidence from places other than a court (s 294(b))
- Complainant is entitled to have a support person (s 294(c))
- **Note:** DV complainants can be cross-examined by a self-represented accused.

Resources

- ODPP website: www.odpp.nsw.gov.au
- WAS resources:
 - [Court Support Services List](#)
 - [Information for Court Support Persons](#)
 - [About Victim Impact Statements](#)
 - [About the Sentencing Process](#)
- [Remote Witness Facilities Guidelines for Support Persons](#) – Department of Justice
- [Justice Journey](#) – Department of Justice
- [Victims Services resources](#)
- WAS Contacts
 - Sydney WAS (02) 92852502
 - Lee Purches, Manager Witness Assistance Service - (02) 9285 8777 lpurches@odpp.nsw.gov.au
 - Gavin Rowan, Acting WAS Manager - (02) 9285 2570 growan@odpp.nsw.gov.au
- ODPP - Reception (02) 9285 8606 or Toll free 1800 814 534 www.odpp.nsw.gov.au