

SPSO decision report

Case: 201603257, Crown Office and Procurator Fiscal Service
Sector: Scottish Government and devolved administration
Subject: policy/administration
Decision: upheld, recommendations

Summary

Mrs C complained about the Crown Office and Procurator Fiscal Service (COPFS). Mrs C was required to attend court on two occasions as a witness and victim of charges relating to assault and threatening behaviour. She was identified as a vulnerable witness and arrangements were made for statutory special measures to support her in giving evidence, namely witness screens and a witness supporter. However, outside the courtroom the accused was able to move freely throughout the courthouse (except for the witness waiting room).

Mrs C said she tried to stay in the witness room for her own safety, but had to leave at some point as there were no toilets in the room. She was also required to leave at lunchtime when the court building closed. Mrs C said the accused waited outside the court building on one occasion, and also approached her and intimidated her within the court building.

Mrs C complained about her experience to COPFS, who told her that security within the court building was the responsibility of the Scottish Court and Tribunal Service (SCTS). She then complained to the SCTS. The SCTS said they were restricted by the physical layout of the building, but they also said that they could have made additional arrangements (in addition to the statutory special measures). They said that this could have included:

providing a separate access route, or working with police colleagues to stagger departure times;

providing access to a different toilet; and

arranging for her to remain within the building during lunchtime.

SCTS said these arrangements were not provided because they were not made aware by COPFS or Witness Support (a voluntary organisation) of any particular need. In response to our enquiries, COPFS said they had identified Mrs C's concerns on the Vulnerable Witness Application, so the SCTS would have been aware of these. However, the SCTS said that this application only related to the statutory special measures and they were not made aware of any particular issues of intimidation or harassment.

After investigating this matter, we upheld Mrs C's complaint. We found that COPFS and SCTS each gave different versions of the process that should be followed for notifying SCTS of the need for additional arrangements outside of statutory special measures. Neither organisation gave evidence that their version of the process had been agreed between the two and we were not able to conclude that either version was correct.

We considered it was unreasonable for both organisations to not have a clear and shared understanding of this process given that they are jointly responsible for working together to support and protect vulnerable witnesses. We noted that COPFS had now introduced a cover sheet to the Vulnerable Witness Application to include some additional information about witnesses when communicating with SCTS. However, this did not include a specific field or prompt for noting the type of concern that arose in this case.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mrs C that arrangements were not put in place to avoid contact between her and the accused, and for the delay in responding to her complaint. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/leaflets-and-guidance.

What we said should change to put things right in future:

- There should be a clear process for COPFS to communicate to SCTS where they consider a witness would benefit from additional arrangements in the court building (such as arrangements to avoid contact with the accused).

In relation to complaints handling, we recommended:

- Written responses should normally be sent within 20 working days of receipt of the complaint.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.