

SPSO decision report

Case: 201609187, Scottish Court and Tribunal Service
Sector: Scottish Government and devolved administration
Subject: policy/administration
Decision: upheld, recommendations

Summary

Mrs C was required to attend court on two occasions as a witness, and a victim, of charges relating to assault and threatening behaviour. Mrs C 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 that she tried to stay in the witness room for her own safety, but that she had to leave at some points as there were no toilets in the room, and 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 first complained about her experience to the Crown Office and Procurator Fiscal Service (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. While the SCTS said they were restricted by the physical layout of the building, they also said that they could have made other arrangements, in addition to the statutory special measures. SCTS said these arrangements 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 Mrs C 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, of any particular issues of intimidation or harassment.

After investigating this matter 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, aside from 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 that it was unreasonable of both organisations that they did 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 upheld Mrs C's complaint.

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. The apology should meet the standards set out in the SPSO guidelines on apology available at <https://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.

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.