



POLICE ATTENDANCE AT COURT

Executive Summary:

Magistrates Courts in the West Midlands Force Area have experienced difficulty in setting suitable trial dates due to a lack of reliable, up to date information on the availability of witnesses (civilian and police). As a consequence trial dates are fixed which sometimes results in police officers being required to attend court on annual leave, rest days or on night duty. Relevant dates are taken from statements for civilians, and provided by the CMU using My Time for police officers. It is therefore imperative that officers annual leave and duties are fully accurate and up to date on My Time.

Issues have also arisen where court warnings have been sent to police officers/staff to attend court as a witness when the officer / member of staff has been on sick leave. Unfortunately, no further information has been made available to the Witness Care Unit – resulting in the CPS and Courts not being sighted on the witness's level of sickness and likely return to work date. If an officer is on or expected to be on long term sickness absence, it is their line manager's responsibility to inform the Witness Care Unit at the earliest opportunity, for them to liaise with the Crown Prosecution Service.

There are circumstances where staff are clearly unable to attend court due to the nature of an injury or illness. However, in other cases while they may be unfit for duty or work, they may be able to attend court and give evidence and prevent the unnecessary discontinuance of a case.

Authorised Professional Practice:

- This policy has been checked against APP and there is none in relation to the subject matter of this policy.

Policy Statements:

COURT ATTENDANCE

- Officers in charge of cases (OIC) will not be routinely called to attend court unless their presence is required to:
 - Give evidence
 - Assist in witness care arrangements involving vulnerable and intimidated witnesses
 - To produce exhibits that cannot lawfully be produced by the CPS (firearms/drugs) and where a photograph or live link view of the exhibit is inappropriate
 - Assist in complex, sensitive or high profile cases where it is deemed appropriate for more effective conduct of the case.
- Police witnesses MAY be required to attend court on rest days or night duty if:
 - The civilian witnesses are only available on dates that affect these duties
 - There are multiple officers required to give evidence which has led to a clash of `best` dates
 - It is the only available date to ensure an early trial date is set
 - The use of live links will be considered in all appropriate cases.
- The Witness Care Unit will warn all individuals concerned in a case if required for court, so it is imperative that contact details provided to witness care are up to date.

- Shared Services will update My Time with relevant court duty. It is the officer's responsibility to keep this date. It is the expectation of Judges that officers are accountable for their own attendance where suitably warned by Witness Care.

APPEARANCE AND DRESS CODE FOR COURT

- As per the [uniform, equipment and appearance policy](#), officers attending court will be correctly dressed in operational uniform and police staff will be dressed in smart attire.
- A number of exemptions exist that are also detailed in the policy.

TOUR OF DUTY & COURT ATTENDANCE

- Individuals are reminded that a court abstraction itself is not a full duty.
- If a court warning is for a full day and the trial concludes early, then the individual should complete a full duty day unless agreed otherwise by line manager or another manager of an appropriate rank.

AVAILABILITY RECORDING

- All witness availability, both police and civilian will be recorded on Connect and WMS.
- All police and police staff witness availability will be recorded on My Time.
- The information must be accurate and up to date for the use of the CPS and Courts.
- CPS will use this information when fixing trial dates and to ensure witnesses will not be required to attend Magistrates court off nights and rest days, (except in exceptional circumstances) and during annual leave periods.
- Crown Court will not consider officer rest days or courses, with the exception of highly specialist courses with prior agreement, and this is not guaranteed.

INDIVIDUAL RESPONSIBILITY

- Individuals are responsible for:
 - Informing line managers and RMUs of changes to duties and abstractions
 - Informing line managers of Crown Court warnings that impact on duties (i.e. warned for the following day before a night duty)
 - Keeping contact details up to date on blue pages
 - Keeping personal contact numbers up to date on oracle for Crown Court overnight warnings
 - Giving at least 14 days' notice for leave requests
 - Booking both duty and rest days as annual leave for requested periods of annual leave on MyTime. This is for court availability purposes. No leave will be deducted for rest days in this period.

- The above information will assist forward resource planning and operational resilience. Any resource issues can be identified and managed.
- Incorrect contact details may result in officers dispatched to home addresses to deliver court warnings.
- Due to the court warning process, leave requests submitted with fewer than 14 days' notice may not be captured when setting court availability.

LINE MANAGER RESPONSIBILITIES

- Line managers or RMUs are responsible for:
 - Updating any changes to duties/shifts
 - Accurately recording abstractions on My Time
 - Authorising changes/abstraction requests in a timely manner (this should be within 5 working days)
 - Regularly checking the My Time of officers on Sick Leave and Informing the Witness Care unit if officers are sick and unable to attend court at the earliest opportunity.

LEAVE REQUESTS

- Line managers or RMUs must check there are no court commitments already on My Time for the period in question.
- If the person that inputs leave and inconvenient dates on to My Time identifies clashes (court or other commitments) with the period applied for, they will refer the application back to the officer's supervisor.
- Where necessary, My Time should be recorded with the supervising officer's comments and agreed action.
- A MG10 (witness non availability) form must be fully completed with appropriate guides:
 - C (Course) - All My Time abstractions specified as training courses
 - L (Leave) - Annual Leave, PHL, Elected PHL, TOIL
 - N (Nights) - Any shift due to start between 19:00 and 04:59
 - O (Other) - All other my time abstractions Inc. RRD, special leave, maternity etc.
 - R (Rest) - Rest Day or Free Day
 - S (Sickness) - Sickness i.e. Planned operations and recuperation periods

SICKNESS

- Individuals on restricted duties are still required to attend court.
- Not all medical conditions will exempt an officer from attending court.
- Line managers must explore attendance at court in the first instance.
- CPS may be consulted to consider if officers can provide evidence by Live video link.

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- Court warning received directed to individuals off sick, the individual's line manager must make contact to:
 - Discuss the current status of that witness
 - Discuss the likely return to work date
 - Discuss the ability of the person to attend court to give evidence
 - Encourage attendance, if appropriate
 - Provide support to facilitate attendance where possible.
 - Individuals who attend court whilst sick do so as a witness and keep the status of being sick for all purposes.
 - Occupational Health Department are able to advise and assist in assessment when requested.
 - Line Managers must complete an objection form if they conclude there is a sound rationale for non-attendance at court due to sickness.
 - The objection form must include the full detailed rationale and a copy of the current sick note.
 - Completed objection forms must then be submitted to Witness Care Unit.
 - Police Witness Care Officer must inform CPS of the ability/willingness or otherwise of individuals to attend court.
 - Considering the individual circumstances of the case, Courts have the power to:
 - Adjourn
 - Discontinue
 - Issue a witness summons
 - There will be occasions where people considered unfit for work are fit to give evidence.
 - There can be no definitive list of circumstances where court attendance is viable despite being unfit for work.
 - Proper communication between:
 - The person absent through sickness
 - Police supervisors
 - CPS

Will allow the court to make informed decisions on adjournments or discontinuance of a case.

- Supervisors must consider arrangements to assist individuals who are sick to attend court.
- This may include travel arrangements if the nature of the sickness causes difficulty.
- NPU/Departments must cover costs for any arrangements. These are not recoverable from the court or CPS in criminal proceedings.

- The Police Witness Care Officer must inform CPS of:
 - The nature of the illness or injury of a police witness
 - Circumstances of attendance at court by the witness
 - Special arrangements required for sickness/restrictions. (i.e. seating or giving evidence from outside the witness box)
- This will allow CPS to manage the conduct of the case and the presentation of evidence to minimise the time spent at court. It will also help CPS facilitate witnesses to give evidence.
- Officers must attend court in civilian clothes. This is to avoid requests to perform functions required of them to undertake if they were fit for duty.

REST DAYS/NIGHT DUTIES

- As an agreed general rule, police witnesses on a rest day or night duty will be considered UNAVAILABLE and NOT routinely called to give evidence.
- There is an expectation that officer rest days will be highlighted and avoided when CPS/Courts set trial dates.
- The needs of the civilian witness will always come first followed by the needs of the courts to set trials. Thus, rest days cannot always be avoided.
- Officers usually receive two weeks' notice for a magistrates court trial date so rest day can be re-rostered.
- Police witnesses MAY need to attend court on a rest day or night duty but only when:
 - There are many other witnesses involved
 - The witnesses work different shift patterns
 - Only a significant minority are on rest day or night duty

MATERNITY/PATERNITY/ADOTION LEAVE

- Individuals on maternity, paternity or adoption leave are still expected to attend court.
- If RMUs receive warnings for individuals on extended maternity, paternity or adoption leave, line managers must contact the individual to advise.
- In line with [WMP Maternity Leave Policy](#), time spent at court will be recompensed as Time Owing. Payment for time spent may affect entitlement to maternity pay.

OBJECTIONS TO COURT ATTENDANCE – AVAILABILITY

- [Objection Form](#) (hyperlink when on system)



- RMUs will automatically object to court warnings on an individual's behalf for the following reasons:
 - Annual leave
 - Personal Safety Training (PST), Public Order or First Aid Training
 - Individual's 2nd Night Shift
 - Elected Public Holiday
 - 1st Rest Day after nights
 - Existing Court Warnings already on My Time.
 - Other Rest Day warnings will only be objected if there is less than 15 days' notice.
- Courts need as much information as possible for objections relating to pre-booked leave. Objections must include the date(s) when the leave was booked and any evidence of the holiday booking.
- Do not book leave after a warning has been received.
- The Witness Care Unit will send a copy of received objections to the CPS for consideration by the courts.
- Objections are not likely to be granted for rest days alone unless exceptional.
- It is advisable to book rest days as part of annual leave requests and protect special dates/events.
- It has been agreed, only in exceptional circumstances will ANY witness be expected to return from annual leave to give evidence in court.

OBJECTION PROCESS

- Witness Care have implemented a process for objection consideration by the courts.
- Submit objections as soon as possible upon receipt of the warning. All appropriate details must be completed on the objection form.
- Whilst an objection is being considered, officers remain warned for court and are expected to attend.
- If Witness Care receive a formal de warn from the CPS, only then is the objection considered to be upheld.

WITNESS CARE CONTACT DETAILS

Email: witnesscare@westmidlands.police.uk

Definitions/Acronyms:

RMU – Resource Management Unit

CPS – Crown Prosecution Service

NPU – Neighbourhood Policing Unit

TOIL – Time off in Lieu



<p>PHL – Public Holiday Leave WMP – West Midlands Police WMS - Witness Management System MyTime – WMP Time and Attendance System</p>
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Monitoring and Review

Version	Date Reviewed	No change / Minor Changes / Major Changes (<i>detail</i>)	Amended / Agreed by	New review date
1.1	24/03/2022	Minor - See Review Checklist	Kate Chackett Dan Turnbull	24/03/2023