

# **COURT ATTENDANCE PROTOCOL**

## **PROTOCOL COVERING LISTING AND ATTENDANCE OF POLICE WITNESSES AT COURTS IN NORTH WALES, AGREED BETWEEN NORTH WALES POLICE, NORTH WALES CPS, NORTH WALES HMCS**

*NB Listing is deemed a judicial function and as such is the responsibility of the court. This document does not alter that position. It is addressed to those who can contribute to the efficiency of the listing process by means of appropriate local agreements and effective flows of information.*

## **1. Introduction**

1.1. This protocol has been prepared and agreed by the three agencies named in the title in the interests of staff welfare, operational efficiency and service to the public in the matter of court attendance by Police Officers.

## **2. Purpose**

2.1 The aims of this protocol are:

- To minimise the financial costs and operational difficulties to North Wales Police arising out of the attendance at court by its officers.
- Minimise inconvenience and personal difficulties caused to North Wales Police officers by requirements to attend court on days off and night shifts.
- Maximise the understanding of and co-operation in the alleviation of the above difficulties by CPS and HMCS.
- Ensure North Wales Police staff are fully conversant with the requirements of CPS and HMCS in delivering a service in a timely and efficient way and that NWP systems are as efficient as possible in serving their needs.

## **3. Partners**

North Wales Police  
North Wales CPS  
North Wales HMCS  
North Wales LCJB

## **4. Agreed Actions (Listing)**

4.1 North Wales Police agrees to continue to maintain an accurate record of officer availability to attend court information. This information will be directly accessed by the Case Building Teams (to supply initial availability for first hearing) and Witness Care Units (to supply availability for subsequent hearings) and supplied to CPS for presentation in listing decisions at Court.

4.2 North Wales Police officers are responsible for ensuring their availability is up to date on the Duty Management System (DMS) and officers submitting case files will confirm that their own availability and that of any colleagues listed as witnesses on file is also accurate and up to date.

4.3 The Crown and Magistrates Courts (HMCS) and CPS, agree to ensure that all requirements made of witnesses to attend court by the Defence are scrutinised thoroughly, and that witnesses are only warned to attend court, when it appears absolutely necessary.

4.4 HMCS and CPS agree to try to ensure that officers are not called to court on any dates which are shown on the available form MG10, as dates to avoid.

4.5 HMCS and CPS agree to treat dates to avoid (when they cannot be avoided) in the following order of importance:

- An Annual Leave Day or Rest Day Adjoining Annual Leave,
- Night Shift or Day After Night Shift,

- Rest Day with Less Than 5 Days Notice,
- Rest Day with More Than 5 Days Notice but less than 15,
- Rest Day with More Than 15 Days Notice,
- Course Day,

4.6 HMCS and CPS acknowledge that they need to give North Wales Police the maximum amount of time to adjust shifts in light of court warnings given to officers on night shifts and that they will consider this factor in setting trial dates.

4.7 CPS will communicate witness requirements and cancellations to the Witness Care Units within 48 hours of any decision for a requirement to attend, or variation of a decision or cancellation. The WCU will inform the officer concerned via email within 2 working days of the day of receipt of the message from CPS. It will be assumed that the message has been received if no "out of office reply is received". If one is received, then the message will be re-sent to a supervisor in the territorial area concerned unless the content of the "out of office reply" indicates that the message will be received in sufficient time. In the case of Special Constables, any email warning or cancellation will be sent to a Regular Supervisor in the area in which the Special is based and not the Specials themselves. Any court warning or cancellation or variation emails will be copied to the Resources Unit of the Division concerned. Police Officers are required to acknowledge receipt of the court warning and confirm their attendance.

4.8 North Wales Police agree that in the event of an officer wishing to question a court warning or attendance, this will only be done following the scrutiny of, and the approval of the divisional DCI, (or their delegate), who may if he or she decides accordingly, direct that it be taken up with the CPS unit head for the area concerned. The only exception to this will be where the officer anticipates being off sick on the date in question, covered by a medical certificate, in which case they must inform the Witness Care Unit directly, as soon as possible.

4.9 In the event of a Police Officer being off sick on the day of court, North Wales Police agree to instruct that officer to provide a medical certificate from a doctor covering the sickness period and specifying that the officer was unable to attend court due to the sickness. This is a requirement that HMCS make of all witnesses. North Wales Police also recognises that HMCS reserve the right to require court attendance by an officer under certain circumstances, even though the officer may be off sick, such as where the ailment, does not mitigate against being able to attend and give evidence. WCUs will inform CPS of any sickness relating to court attendance by an officer.

## **5. Agreed Actions at Court**

5.1 On the day of the Court all officers that are required to attend must do so. The Officer in Case, (which can be any officer but preferably the one who has had the most involvement with the case or is the manager of the case), must ensure all police witnesses are available and report to the CPS lawyer that they are available and in attendance.

5.2 If the case involves several officers and each is likely to be giving evidence for a considerable period of time, the OIC may secure agreement of the CPS lawyer as to which officers are required to stay at court, and which will not be needed immediately. The OIC must remain at court and be in possession of all the contact details for any police witnesses allowed to go to this stand-by situation. Officers on stand-by may return to a

Police Station in the town in which the court is situated provided they are able to return to court within 10 minutes of being contacted and provided that the OIC is in possession of telephone contact details for them.

5.3 Officers should only engage in office work, when on standby and not get involved in operational incidents and should ensure they are at their telephone contact and that it is not engaged at any time that they are on standby. The police witnesses must arrive at court in time to give their evidence without causing delay.

5.4 If any police witnesses are not required the OIC must contact the officer and inform them immediately.

5.5 This agreement does not pertain to courts outside North Wales and officers should attend and remain as warned in those cases or act in accordance with any other established protocols.

5.6 Once police witnesses have given evidence the court will, wherever possible, release them. Once released, police witnesses should return to normal duties unless there is a compelling reason for them to remain at court.

5.7 Officers will attend court and give evidence dressed in accordance with force policy and any separately agreed protocols.

## **6. Monitoring and Review**

6.1 North Wales LCJB will monitor this protocol and assist in bringing identified problems to the attention of management in the respective parties to the agreement.

6.2 The LCJB agree to monitor the agreement on yearly basis with the other partners on the anniversary of the date of the last signature below.

**7. Signatories**

The signatories agree to implement the provisions of this Protocol and the local arrangements set out in the attached schedule

North Wales Police  
Chief Constable

Signature .....

Date .....

North Wales Crown Prosecution Service  
Chief Crown Prosecutor

Signature .....

Date .....

North Wales HMCS

Signature .....

Date .....

## **Appendix**

### Background Information

The Police service is bound by regulations concerning the call of officers to duty on a rostered rest day or annual leave day.

- Where an officer receives more than 15 days notice of a cancelled rest day, he/she shall be entitled to a further day in lieu of that cancelled day.
- Where an officer receives more than 5 days notice but less than 15 days notice of a cancelled rest day, he/she shall be entitled to receive payment at time and a half times the normal rate.
- Where the officer receives less than 5 days notice, the officer is entitled to receive payment at double time.
- Where an officer is required to attend Court on an annual leave day, the officer shall be entitled to an additional two days leave in lieu.

To call an officer to attend court on a rest day or annual leave or on any day when that officer would normally be required to perform night duty or the day following a night duty, or when an officer is scheduled to attend a course impacts negatively on:

- Officers' welfare.
- Operational Cover
- Financial Resources and
- Training Resources and Commitments

Although a rest day for the officer may fall on a weekday, this may be as important to the officer as a weekend day is to a non-shift worker.

Fixing trials during or immediately after Night Duty causes considerable operational problems due to the need for an officer being required to miss up to three night shifts to make the court appearance and other officers often have to fill the void on overtime payments. Such a situation is also not conducive to officer welfare.

Where officers are cancelled prior to the hearing, the cancellation may not rectify the situation. The officer, and those who have been re-rostered to cover for their colleague, may be entitled to work the newly allocated duty and claim payment at the appropriate (overtime) rate.

Courses are an important aspect of the officers' ongoing training. The availability of courses has been dramatically reduced to save cost and only those with a pressing need for training are provided with courses.

Whilst it is hoped that all avoid dates can be avoided the below list is in order difficulties likely to ensue:

- Annual leave.
- Night Shift.
- Rest Day less than 5 days notice.
- Rest Day more than 5 days notice but less than 15 days notice.
- Rest Day more than 15 days notice.
- Course.

### **Abbreviations**

CPS – Crown Prosecution Service  
DCI – Detective Chief Inspector  
DMS – Duty Management System  
HMCS – Her Majesty's Court Service  
LCJB- Local Criminal Justice Board  
NWP- North Wales Police  
OIC – Officer In Case  
WCU- Witness Care Unit