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Response to	<b>Sentencing Council consultation: witness intimidation</b>
Issued by	<b>Sentencing Council</b>
Link to consultation	<a href="https://www.sentencingcouncil.org.uk/wp-content/uploads/Perverting-the-Course-of-Justice-Consultation-paper.pdf">https://www.sentencingcouncil.org.uk/wp-content/uploads/Perverting-the-Course-of-Justice-Consultation-paper.pdf</a>
Notes	<b>This response only addresses the witness intimidation element of the consultation.</b>  <b>For additional information please contact Samira Ali on <a href="mailto:samira.ali@magistrates-association.org.uk">samira.ali@magistrates-association.org.uk</a></b>

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**Question 6: Do you have any comments on the culpability factors? Are there any that should be removed or added?**

Yes. The MA would also welcome the addition - in the Higher culpability category – of a factor which considers the hire or commission of a group or gang to intimidate witnesses. We feel this goes beyond deliberately seeking out or planned nature of conduct.

**Question 7: Do we agree with the approach to assessing harm? Are there any other factors you think should be removed or included?**

Mostly. The MA makes two points in respect of the above outlined factors:

- 1) As part of this guideline’s assessment of harm, the MA would also like to see Category 1 involve – in addition to fear and anxiety felt at home – fear and anxiety felt at work.

While the comparative levels of safety felt at either place may differ for some, intimidation that takes place at work can also have distinct and negative ramifications for a witness that should be recognised within the scope of this guideline.

Resultant effects include not being able to concentrate on work, knock-on impacts on colleagues, and even loss of employment should the fear and anxiety from intimidation impacts their performance or creates general disruption at work. Because home and work are fixed physical areas, the risk of an offender striking again is also similar in such a context.

- 2) With respect to the criterion for a Category 2 harm, the MA would recommend that any distress to a witness arising from an accidental or chance encounter with the offender, which is not deliberate, could be included.

**Question 8: Do we agree with the proposed sentence table, and its starting points for offences under this guideline?**

Yes.

**Question 9: Do we agree with the proposed aggravating and mitigating factors?**

Yes.

**Question 10: Do you have any other comments on this guideline?**

No.