

**Committee for Justice**

**Report on  
the Committee's Inquiry into the  
Criminal Justice Services available to  
Victims and Witnesses of Crime in  
Northern Ireland**

**Together with the Minutes of Proceedings, Minutes of Evidence, Written Submissions and  
Other Memoranda and Papers relating to the Report**

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Report: NIA 31/11-15 Committee for Justice**

**REPORT EMBARGOED  
UNTIL COMMENCEMENT OF  
THE DEBATE IN PLENARY**



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# Membership and Powers

The Committee for Justice is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, Section 29 of the Northern Ireland Act 1998 and under Standing Order 48.

The Committee has power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- consider relevant subordinate legislation and take the Committee stage of primary legislation;
- call for persons and papers;
- initiate inquiries and make reports; and
- consider and advise on any matters brought to the Committee by the Minister of Justice.

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee during the current mandate has been as follows:

Mr Paul Givan (Chairman)  
Mr Raymond McCartney (Deputy Chairman)  
Mr Sydney Anderson  
Mr Stewart Dickson  
Mr Tom Elliott<sup>1</sup>  
Mr Seán Lynch  
Mr Alban Maginness  
Ms Jennifer McCann  
Mr Patsy McGlone<sup>2</sup>  
Mr Peter Weir

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1 With effect from 23 April 2012 Mr Tom Elliott replaced Mr Basil McCrea.

2 With effect from 23 April 2012 Mr Patsy McGlone replaced Mr Colum Eastwood.

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## List of abbreviations and acronyms used in the Report

CAJ	Committee on the Administration of Justice
CJINI	Criminal Justice Inspection Northern Ireland
DoJ	Department of Justice
FLOs	Family Liaison Officers
IDVAs	Independent Domestic Violence Advisors
ISVAs	Independent Sexual Violence Advisors
NICEM	Northern Ireland Council for Ethnic Minorities
NICTS	Northern Ireland Courts and Tribunals Service
NIPB	Northern Ireland Policing Board
NIVWS	Northern Ireland Victim and Witness Survey
NSPCC	National Society for the Prevention of Cruelty to Children
PBNI	Probation Board for Northern Ireland
PPS	Public Prosecution Service
PSNI	Police Service of Northern Ireland
RCSLT	Royal College of Speech and Language Therapists
SAMM NI	Support After Murder and Manslaughter Northern Ireland
SARC	Sexual Assault Referral Centre
UU RPP	University of Ulster Restorative Practices Programme
VSNI	Victim Support NI
WAF	Women's Aid Federation
WCU	Witness Care Unit

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# Executive Summary

## Background and Approach

1. The decision to conduct an inquiry into the criminal justice services available to victims and witnesses of crime in Northern Ireland was reached given the key role of witnesses, many of whom are also the victims of crime, in the criminal justice system and the intention of the Department of Justice to develop a new 5-year strategy for victims and witnesses of crime. As well as conducting an inquiry that would identify gaps in current provision, the Committee was determined that its inquiry would stimulate debate and engagement with the objective of influencing positive change and tangible outcomes in service provision for victims and witnesses by the criminal justice system.
2. During this inquiry the Committee has heard from and spoken directly to a wide range of advocacy and victims' representative groups and individuals and families who themselves have had first-hand experience of the criminal justice system. The Committee has also discussed the emerging issues with the Criminal Justice Agencies including the Department of Justice, the PSNI, the Public Prosecution Service, the Northern Ireland Courts and Tribunals Service and the Probation Board.
3. The Committee took account of existing relevant reports and research papers and commissioned research from Assembly Research Services on particular aspects of the services provided to victims and witnesses to inform its deliberations. Committee members undertook site visits during the course of the inquiry to a number of Northern Ireland's Courthouses to view the facilities available to victims and witnesses and visited West Yorkshire Witness Care Unit to view the services that such Units currently provide in England and Wales.
4. The Committee is indebted to all those who participated in the inquiry through the provision of written and oral evidence and the hosting of visits and is also particularly appreciative of the invaluable contribution made by those individuals who agreed to take part in this process. The evidence provided by these individuals brought home to the Committee the very difficult experiences of those who, under very unfortunate and sad circumstances, found themselves gaining direct experience of the criminal justice system in Northern Ireland.

## Current Position

5. The written and oral evidence received by the Committee has highlighted that a range of initiatives and work has been taken forward in recent years aimed at improving the services to and the experience of victims and witnesses who encounter the criminal justice system. These include the introduction of a Code of Practice for Victims of Crime, revised guidance on Achieving Best Evidence in Criminal Proceedings and the inclusion of additional provisions for the use of special measures for vulnerable and intimidated witnesses in the Justice Act (Northern Ireland) 2011. The Committee also heard examples of excellent service, often beyond what was required of them, being delivered by individuals within the system.
6. The Committee also recognises the crucial contribution made by Victim Support NI, the NSPCC Young Witness Service and other voluntary sector organisations in steering victims and witnesses through the system and providing support and assistance when it is most needed. The Committee commends the collaborative approach these organisations adopt with the statutory criminal justice agencies and believes that the system would be a much colder place for victims and witnesses without them.
7. However, despite all of this, victims and witnesses, and in particular bereaved families, still face significant difficulties with the criminal justice system and the criminal justice agencies and their experience of the process is often frustrating, demoralising and on occasions devastating as illustrated by comments such as "*the trauma suffered by families can often be exacerbated by the criminal justice system*" and "*people are misinformed, ill-informed or*

*not informed at all*". The evidence from the victim support organisations has also illustrated the difficulties faced by victims and witnesses as has the findings of recent Criminal Justice Inspection reports.

8. There are a number of key issues that clearly impact upon victims and witnesses. These include: the lack of status victims and witnesses have within the criminal justice process; the lack of dignity and respect shown to victims and witnesses during the process; difficulty in understanding the process; difficulties in obtaining information about their case; feeling unprepared; the lack of support required to give evidence; the lack of emotional and psychological support services and practical assistance; the lack of a joined-up approach between criminal justice agencies; the lack of continuity of service within criminal justice agencies; poor facilities in courthouses; and the length of time cases take to reach a conclusion during which victims and victims' families lives are put on hold.
9. While these difficulties exist throughout the criminal justice process they are particularly acute in the PPS from the stage of the assessment of a case, through the process of a decision to prosecute, and on through to the completion of the case.
10. The co-operation of victims and witnesses in the criminal justice process is vital to achieving convictions and ensuring that justice is seen to be done. While recognising that the adversarial nature of the justice system does not provide a conducive environment for victims and witnesses it is the Committee's strong belief that much more can and needs to be done to redress the balance and ensure that an effective and appropriate service is provided for them. The Committee is therefore making a number of key recommendations to deliver the radical changes that in our view are required and the development of a new 5 year victims and witnesses strategy by the Department of Justice will provide the opportunity to take these forward.

#### **The Status and Treatment of Victims and Witnesses**

11. Issues around the status and treatment of victims and witnesses in the criminal justice system and the need for them to be treated with dignity and respect became a recurring theme during the inquiry. The evidence the Committee heard from individuals when outlining their experiences clearly demonstrates that engaging with the criminal justice system as a victim and/or witness or as a bereaved family is a daunting experience which can entail encounters with a number of criminal justice agencies and voluntary sector organisations from the time the crime is reported, through the police investigation, prosecution decision making process, court process, sentencing and beyond. It is the Committee's view that all victims and witnesses are entitled to be treated with dignity and respect by the criminal justice system and to be provided with the appropriate level of information in a timely manner.
12. Given the inability of the criminal justice organisations to achieve this to date the Committee does not believe that the introduction of further guidance documents will accomplish the 'step change' required. The Committee believes that entitlements for victims and witnesses must be put on a statutory basis and that these entitlements should be extended to bereaved families. The Committee also views mandatory training on the care and treatment of victims and witnesses as a necessity for all staff in criminal justice organisations who interact with victims and witnesses. Appropriate recommendations in these areas have been included in the report.

#### **Single Point of Contact – Witness Care Units**

13. There is general acknowledgement amongst the criminal justice agencies and the advocacy organisations who gave evidence to the Committee that Witness Care Units (WCUs) will be key in managing the early identification of vulnerable and intimidated witnesses, securing appropriate support services and ensuring that information is communicated more effectively to victims and witnesses thus improving the service provided.
14. The Committee supports the introduction of Witness Care Units, viewing them as an opportunity to provide a single point of contact for victims and witnesses in relation to their

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case to include co-ordination of support and services and the provision of timely information which should greatly improve their experience of the criminal justice system.

15. The Committee has made recommendations regarding the need for the remit of Witness Care Units in Northern Ireland to provide the single point of contact for as much of the process as possible and to ensure they are established as quickly as possible.

### **Communication and Information Provision**

16. A major concern that recurred throughout the oral and written evidence was how the criminal justice organisations communicated with victims and witnesses, and the quality and timeliness of the information provided in individual cases.
17. While the criminal justice organisations outlined in their written and oral evidence the processes in place and the key stages when information should be communicated to victims and witnesses, the evidence from individuals, families and victim support groups indicated otherwise. The Committee heard many examples of failures in communications with victims and witnesses left feeling confused, frustrated, ill-informed or not informed at all. The manner of some of the written and verbal communication resulted in some feeling undervalued, sidelined and an 'inconvenience' to the process.
18. The Committee believes that improving the level of communication between the criminal justice organisations and victims and witnesses and the manner in which the communication takes place is central to improving victims' and witnesses' experience of the criminal justice system and their satisfaction with it.
19. The Committee has made a number of recommendations around defining communication procedures, clarifying entitlement to information and proactively providing information at key milestones throughout the process to victims and witnesses to assist their understanding of the criminal justice system in general and the position in relation to their case in particular.

### **Accountability**

20. Due to the fragmented nature of accountability within the justice system there is much confusion around the level of service that victims and witnesses are entitled to and who has responsibility for the delivery of particular services or the provision of information at particular stages of the process. The Committee is of the view that there must be a requirement for each of the criminal justice organisations to account for the delivery of the services they are required to provide and have in place mechanisms to measure and report on performance against service standards with the aim of improving the service provided year on year.
21. The Committee has therefore made recommendations that provides for greater accountability for the provision of services to victims and witnesses of crime within each of the criminal justice organisations.

### **Support Provisions and Special Measures**

22. The Committee believes that it is important that victims and witnesses of crime have access to a range of support services, including special measures, that provide practical assistance as well as emotional and psychological support and that these support mechanisms are in place for as long as they need them.
23. The Committee is concerned about a lack of consistency regarding the assessment for special measures, a lack of communication between the criminal justice organisations regarding individuals' needs and the absence of a formal review mechanism during the process to identify if/when an individual's needs change.
24. The Committee is also concerned that many individuals, particularly in relation to serious crime, did not feel they received the necessary practical support as their case progressed through the system or to deal with the impact of the crime and that the ability of

organisations who could provide support was reduced by the current 'opt-in' system where individuals must consent to being approached by that organisation rather than having an 'opt-out' system.

25. To address the issues raised in relation to support provisions and special measures the Committee has made recommendations regarding early assessment and practical support interventions. The Committee also recommends obstacles preventing organisations from proactively approaching victims are removed, that examples of current best practice provisions are extended and that the issues regarding the specific needs of certain categories of victims are addressed.

#### **Provisions at Court**

26. It is clear from the Committee's visits to Londonderry, Lisburn and Laganside Courts and its discussion with individuals, that many of the court buildings in Northern Ireland are not conducive to the needs of victims and witnesses. Difficulties include lack of facilities, lack of privacy, proximity to the defendant and/or their supporters, and in some courts overcrowding due to the volume of business being conducted and the lack of a proper system for scheduling the timing of witness attendance.
27. While recognising that there is unlikely to be large amounts of capital funding available to deliver wholesale physical changes to courthouse layouts the Committee is of the view that improvements can be made to the facilities and rooms provided for victims and witnesses and the recently commissioned Review of the NI Courts Estate by the Minister of Justice provides an opportunity to do this. The Committee also believes that the scheduling of witnesses attendance could be much improved thereby reducing the length of time they are frequently required to wait and the pressure on facilities at busier courthouses.
28. The Committee has made recommendations to address the issues relating to the poor quality of the physical environment within courthouses and the standard of service provided to victims and witnesses when attending court including the introduction of a maximum waiting time for witnesses.

#### **Delay in the Criminal Justice System**

29. The Committee recognises the major impact delay in the system has on victims and witnesses and is of the view that avoidable delay between the incident occurring and the conclusion of the case must be tackled as a matter of urgency. The Committee believes that the Department of Justice needs to play a more important role in ensuring this issue is robustly tackled and it needs to be the focus of the highest level officials within each organisation to ensure it receives the necessary priority and response required.
30. While delay is a common complaint with regard to the entire criminal justice process the Committee found that one of the key frustrations for victims and witnesses is the length of time court cases take and the number of postponements/adjournments that often occur.
31. The Committee notes and supports the recommendation by the Criminal Justice Inspection that case management should be placed on a statutory footing and agrees with its analysis that this would be beneficial and have an overall positive effect in addressing delay and ultimately the experiences of victims and witnesses. The Committee is disappointed that the Department of Justice has declined to accept this recommendation and introduce a statutory case management scheme in the foreseeable future.
32. The Committee believes the issue of delay has been ongoing for much too long and substantive action, including the introduction of a statutory case management scheme is required now given the detrimental effect delay has on victims and witnesses.

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### **Participation**

33. As part of its consideration of victims' participation in the criminal justice process, the Committee considered evidence on Victim Impact Statements and Reports, Compensation, Youth Conferencing, and Restorative Justice.
34. The Committee is of the view that it is important that victims of serious crime and bereaved families have an opportunity to relate, during the criminal proceedings, the impact that the crime has had on them and for account to be taken of this impact and that Victim Impact Statements and Reports are appropriate mechanisms to achieve this. The current system however lacks clarity in relation to the completion, content and use of them. It is for these reasons that the Committee makes recommendations regarding the formal use of Victim Impact Statements and Reports.
35. The Committee also subscribes to the view that often the compensation process is the only form of participation in the criminal justice system for an individual affected by crime. It is therefore important that the compensation schemes in place are 'fit for purpose' and the operation of them is efficient and effective. The Committee has made recommendations to examine processes and procedures within the Compensation Agency and also review the underpinning legislation.
36. The Committee recognises that the adoption of restorative practices can be beneficial to victims of crime and can provide answers to questions that may otherwise go unanswered and therefore recommends that, when appropriate, the facilitation of restorative practices for those who wish to avail of this should be provided.

### **Collation of Information/Research on the Experiences of Victims and Witnesses**

37. The Committee believes that the availability of detailed research and qualitative and quantitative information is a necessity to identify key issues that need to be addressed and inform policy development. The paucity of specific detailed statistical data and qualitative research across the criminal justice system is therefore an area that requires action. The Committee makes several recommendations regarding the collation of information on the experiences of victims of serious crime and the services provided to them by each of the organisations within the criminal justice system.

### **Conclusion**

38. The Committee agrees with the view, as summed up in the words of one individual "*I think that there is an imbalance of resources. The defendant has rights and that is how it should be. The defendant has a right to a fair trial and I am fully in favour of the rights of defendants but that should not entirely exclude some rights for victims and the families of victims. That is really important. It is not an either/or, it is a both*" and believes it is now time to redress the balance.
39. The development of a new 5-year strategy for victims and witnesses provides an opportunity to make the substantial changes that are undoubtedly required within the criminal justice system. The implementation of the recommendations the Committee has made as part of this inquiry will ensure that the services provided to victims and witnesses and their experiences of the criminal justice system will be improved. The Committee expects the Minister of Justice to take full account of the findings and conclusions of this report in the new strategy.



# Summary of Recommendations

## **The Status and Treatment of Victims and Witnesses**

1. A Victim and Witness Charter providing statutory entitlements for victims and witnesses in terms of information provision and treatment should be introduced in the next available Justice Bill.

The Charter should, as a minimum, cover the following entitlements:

- Be treated with dignity and respect
  - Receive information on the progress of their case and the reasons for any delay at identified key milestones in accordance with the timescales set out in the Code of Practice
  - Be informed about the outcome of their case in accordance with the timescales set out in the Code of Practice
  - Be given the reasons for the decision not to prosecute in accordance with the timescales set out in the Code of Practice
  - Be provided with additional support if they are vulnerable or intimidated
  - Receive information on the offender's release from custody and arrangements for their supervision in the community in accordance with the timescales set out in the Code of Practice
  - Complain to an independent body if not satisfied with how an organisation has dealt with their concerns
2. Following on from this the Code of Practice for Victims and Witnesses should be revised to fully reflect these overarching commitments and set out clearly the key milestones at which information will be provided, the timescales for the provision of the information, how it will be provided and who has responsibility for its provision.
  3. The same statutory rights should be afforded to bereaved families.
  4. An independent complaints mechanism should be introduced to deal with all complaints that have not been satisfactorily dealt with through the internal complaints procedures of each organisation.
  5. All staff in the criminal justice organisations who interact with victims and witnesses should receive mandatory training on the care and treatment of victims and witnesses.

## **Single Point of Contact – Witness Care Units**

6. Witness Care Units in Northern Ireland should provide the single point of contact for as much of the process as possible and consideration should be given to how provision can be extended from before the point of a decision being taken to prosecute to beyond the conclusion of the court case to include appeal and post-conviction information and support.
7. Witness Care Units covering all the court regions should be established by December 2013.

## **Communication and Information Provision**

8. Clearly defined communication procedures setting out the information that must be provided to victims and witnesses and the timescales within which it must be provided should be established for each criminal justice organisation. The communication procedures should build on the obligations in the Victims and Witnesses Charter and ensure:
  - The key milestones in the criminal justice process at which information will be provided and the timescales for provision are clearly set out



- There is a proactive approach to the provision of information at each key milestone
  - The information provided is tailored to the needs of the individual
  - There is an opportunity for individuals to seek clarification/further information at any stage of the process
9. Victims should be entitled to receive a transcript of bail conditions including any variations set by the Court for offenders.
10. An easily understandable flowchart setting out case progression through the system and in particular all the various stages of a court case should automatically be provided to all victims and witnesses at an early stage in the process to assist understanding of the criminal justice system and identification of the various stages their particular case may go through.

### **Accountability**

11. The Corporate and Business Plans for each of the criminal justice organisations should reflect their commitment to and actions for improving the services provided to victims and witnesses and should include an objective relating to victim and witness satisfaction levels.
12. Each criminal justice organisation should have measurable standards and mechanisms to monitor and assess delivery of services to victims and witnesses and satisfaction levels on an annual basis and the results should be published on their websites.

### **Support Provisions and Special Measures**

13. A comprehensive formal assessment process should be introduced to identify the needs of individual victims and witnesses in relation to special measures and other support requirements at the earliest stage and the assessment revisited and revised as necessary as the case progresses. This is particularly important for victims and witnesses of serious crime.
14. In relation to serious crimes resources should be provided for practical support services including trauma counselling. These should be available from the crime occurs, throughout the process and beyond if necessary.
15. An opt-out system regarding being approached by Victim Support and the Probation Board should be developed to replace the current opt-in system.
16. Further research and analysis should be carried out to provide a clearer understanding of how avoidable attrition i.e. where a victim/witness withdraws or retracts their evidence, can be minimised and victims/witnesses better supported.
17. The Department of Justice should include actions to address the specific issues raised in relation to children and young people, victims and witnesses with communication needs, victims and witnesses who do not have English as their first language, victims of hate crime and victims of domestic abuse and sexual violence in either the new 5-year strategy for victims and witnesses or other appropriate means such as the proposed new strategy for tackling domestic and sexual violence and abuse.
18. The provision of remote live link facilities, based on the NSPCC Young Witness Service pilot model, and appropriately funded should be extended across Northern Ireland to provide victims and witnesses access to such facilities within a reasonable travelling distance.

### **Provisions at Court**

19. An evaluation of the facilities currently provided for victims and witnesses in all courthouses should be carried out as part of the Courts Estate review with the objective of identifying specific improvements that can be made to provide comfortable and fit-for-purpose facilities within the current buildings for victims, witnesses and bereaved families.

20. The current management of facilities and services for victims and witnesses in courthouses should be examined and in particular whether the dependence upon volunteers is appropriate and properly funded and how a collaborative approach with the Witness Care Units can be developed.
21. A maximum waiting time for witnesses should be introduced.
22. Greater use should be made of specialist courts e.g. domestic violence courts and courts prioritising young persons' cases.

#### **Delay in the Criminal Justice System**

23. Case management should be placed on a statutory footing and this should be taken forward in the next available Justice Bill.

#### **Participation**

24. A formal system for the completion and use of Victim Impact Statements and Reports should be introduced as a matter of urgency and no later than the timescale proposed by the Department of Justice of January 2013.
25. There should be an automatic right for Victim Impact Statements to be completed in all cases involving serious crime.
26. A review of the legislation underpinning the compensation schemes should be undertaken to assess whether it is appropriate and adequate.
27. The issues highlighted in relation to operating procedures and processes should be addressed as part of the on-going Review of how the Compensation Agency delivers its services.
28. When appropriate, the option of participation in an appropriately conducted restorative practice should be facilitated for those victims who wish to avail of this.

#### **Collation of Information/Research on the Experiences of Victims and Witnesses**

29. An appropriate methodology for the collation of the experiences of victims of serious crime should be identified and implemented to include the experience of victims of domestic violence, sexual offences, hate crime and the nature and type of crime against children.
30. information on the experiences of victims and witnesses should be collated across each stage of the process to enable the services provided by the various criminal justice organisations to be assessed and particular issues identified and addressed where necessary.

# Introduction

## Background

1. On 23 June 2011 the Committee for Justice agreed to conduct an inquiry into the criminal justice services available to victims and witnesses of crime in Northern Ireland. This decision was reached given the key role of witnesses, many of whom are also the victims of crime, in the criminal justice system and the intention of the Department of Justice to develop a new 5-year strategy for victims and witnesses of crime.
2. In light of the Committee's decision, the Minister of Justice agreed that the Department would defer launching a consultation process on a draft strategy pending the outcome of the Committee's inquiry.
3. The Committee for Justice agreed the aims and terms of reference for the inquiry at its meeting on 29 September 2011.

## Aim and Terms of Reference

4. The aim of the inquiry was *'to identify the outcomes that the Department of Justice's proposed new strategy for victims and witnesses of crime should deliver and make recommendations on the priorities and actions that need to be included in the plan to achieve these'*.
5. The terms of reference for the inquiry was to:
  - Review the effectiveness of the current approach and services provided by the criminal justice agencies<sup>1</sup> to victims and witnesses of crime;
  - identify the key issues impacting on the experiences of victims and witnesses of crime of the criminal justice system and any gaps in the services provided;
  - Identify and analyse alternative approaches and models of good practice in other jurisdictions in terms of policy interventions and programmes;
  - Consider what priorities and actions need to be taken to improve the services provided to victims and witnesses of crime.
6. The Committee had initially intended to complete the inquiry by the end of February 2012. This timescale was however extended by three months to facilitate work that the Committee undertook in relation to a Review of Judicial Appointments in Northern Ireland which had to be completed by a deadline set in legislation, and also to enable it to fully explore a number of the issues that had arisen from the evidence and research gathered as part of the inquiry.

## Committee Approach

7. The Committee agreed that the inquiry would include evidence based sessions with organisations working with victims and witnesses of crime and key criminal justice stakeholders and that it would seek written submissions and take account of existing relevant reports and research papers. The Committee also agreed to commission research from Assembly Research Services on particular aspects of the services provided to victims and witnesses to inform its deliberations.
8. The Committee placed a public notice in the Belfast Telegraph (Belfast and North West Edition), Irish News and News Letter on 7 October 2011 inviting written submissions and also wrote to key stakeholders seeking views. Eighteen written submissions were received from a range of organisations and these are included at Appendix 3.

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1 criminal justice agencies includes the PSNI, the PPS, the NICTS, the NI Prison Service, the Probation Board for Northern Ireland, the Youth Justice Agency and the Compensation Agency.

9. Two oral evidence events were also held. The first of these took place in December 2011 in the Millennium Forum in Derry/Londonderry and considered evidence from advocacy/victims' representative organisations. At this event the Committee explored the emerging themes from the written submissions received and sought evidence on the measures and interventions required to improve the current system.
10. The second oral evidence event, held in January 2012 in the Lagan Valley Island Centre Lisburn, provided the Committee with the opportunity to explore directly with the PSNI, the PPS, the Compensation Agency, the Department of Justice, the Northern Ireland Courts and Tribunals Service and the Probation Board the issues raised by the advocacy and victims' representative groups and individuals with whom the Committee had met. The Minutes of Evidence of these events and other evidence sessions held are included at Appendix 2.
11. The Committee felt that it was extremely important to hear directly from victims and witnesses and their families to learn of the personal experiences of these individuals and agreed that it would meet with all victims and witnesses who made an approach to the Committee.
12. Five informal meetings with individual victims of crime and/or their families and an oral evidence session facilitated by Victim Support with the family of a murder victim and a victim of a serious crime were held. The Minutes of Evidence of the oral evidence session are included at Appendix 2 and a record of the informal meetings is included at Appendix 6.
13. The Committee was also interested in viewing the facilities available to victims and witnesses in Northern Ireland Courts and undertook visits to Lisburn, Londonderry and Laganside Courthouses.
14. Following the announcement of the Minister of Justice of his intention to establish Witness Care Units (WCU) in Northern Ireland, the Committee undertook a visit to West Yorkshire Witness Care Unit to view the services and facilities that such a unit could provide. A report of the visit is included at Appendix 6.
15. The Committee commissioned a series of research papers on the role of the victim in the criminal justice system and the pathway experienced by victims, examples of good practice initiatives improving the experiences of victims and witnesses, the statutory requirements of criminal justice agencies in Northern Ireland in respect of victims and witnesses, and victim impact statements to assist its consideration of emerging themes and issues. The research papers are included at Appendix 4.
16. The Committee also participated in and attended a number of relevant events and conferences relating to the experiences of victims and witnesses, including the joint NSPCC NI and Victim Support NI Seminar '*Victims' Voices: Experiences of Children and adults of the Criminal Justice System in Northern Ireland*' in November 2011 and the CJI Conference in January 2012 on '*The future of victim and witness care: from aspiration to reality*'.
17. During the inquiry the Criminal Justice Inspectorate published a number of relevant reports including '*The care and treatment of victims and witnesses in the criminal justice system in Northern Ireland*',<sup>2</sup> '*The use of special measures in the criminal justice system in Northern Ireland*',<sup>3</sup> and '*Telling Them Why – An Inspection of the Public Prosecution Service for Northern Ireland's giving of reasons for its decisions*'.<sup>4</sup> The Committee has considered the findings of these reports when formulating its conclusions and recommendations.

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2 <http://www.cjini.org/CJNI/files/ba/ba2a6e4b-0e39-4e1f-af17-c6165a7c827f.pdf>

3 <http://www.cjini.org/CJNI/files/e6/e684b2e9-231e-4c06-b496-5b744e10c0cb.pdf>

4 <http://www.cjini.org/CJNI/files/53/53bb5020-386d-4c49-8291-b2dbed285152.pdf>

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**Acknowledgements**

18. The Committee wishes to record its thanks to all those who participated in the inquiry through the provision of written and oral evidence and the hosting of visits, and in the case of Victim Support NI, facilitating the Committee's interaction with a number of individuals. In particular the Committee wishes to formally acknowledge the invaluable contribution made by those individuals who agreed to take part in this process. The evidence received, whilst at times distressing, brought home to the Committee the very difficult experiences of those who, under very unfortunate and sad circumstances found themselves gaining direct experience of the criminal justice system in Northern Ireland.

# Consideration of Evidence

## The Status and Treatment of Victims and Witnesses

19. Issues around the status and treatment of victims and witnesses in the criminal justice system and the need for them to be treated with dignity and respect became a recurring theme in the evidence the Committee heard from individuals when outlining their experiences. Victims and families described how they felt like a *'by-product'*, *'that the business and interests of the court centre on the perpetrator and the needs of the court not the victim'*, and that they were not treated on an equal basis with defendants, particularly in relation to access to information. One individual described how she felt that she was not initially treated as a victim - *'I felt like I wasn't the victim until it was proved I was, rather than a victim until they proved I was not'*. SAMM NI told the Committee that unless a family member is being called as a witness the family has no role in the system. Families are told repeatedly that they are not victims as the victim is dead.
20. An individual in written evidence stated *'The main message I would like to get across is for more understanding of what victims are going through and the impact of actions and words from the authorities . . . What I think needs changed is that victims need to be seen as humans with real feelings and emotions. The best thing that could change is attitudes towards victims'*. The same individual went on to state that while she would not discourage others from reporting a crime, her experience of the system would prevent her from doing so.
21. The Committee met a number of families of victims of crime who were made to feel they had no rights or entitlements particularly with regard to the provision of information. One family described being told that they didn't need to know particular information, that they would not understand, did not need to be present in court at particular stages and that *'barristers do not talk to families'*.
22. Another individual, in his evidence to the Committee, described his perception that there is unbalanced treatment of victims and defendants. In his experience of participating in the youth conferencing process as a parent on behalf of his son who was the victim he stated that he had no automatic entitlement to the conference report, even though these are provided to the offenders and that this is also the case in relation to copies of statements - victims do not receive copies of statements made by the accused in advance of court proceedings, yet the defendants receive copies of all statements made by victims and witnesses. He also pointed out that at the youth conference there were five people present representing the interests of the defendant's side including the defendant, a solicitor, a youth worker and a parent, while he alone took part as the representative of the victim.
23. Another family member of a murder victim said *'Everything centres on the perpetrators. Perpetrators will have a team of funded agencies advising and representing them; they will be told what will happen to them, when it will happen, what support is available to them. There will be a range of booklets/handouts and online information sites for them to refer to. This is not the case for victims.'*
24. Many of the individuals who gave evidence to the Committee stated that they did not want better treatment than the defendant but wanted some parity. This is summed up in the words of one individual - *'I think that there is an imbalance of resources. The defendant has rights, and that is how it should be. The defendant has a right to a fair trial, and I am fully in favour of the rights of defendants, but that should not entirely exclude some rights for victims and the families of victims. That is really important. It is not an either/or, it is a both.'*
25. Women's Aid highlighted that one of the key issues consistently raised by women using its services is the position, status and dignity of the victim in the overall process. Often they feel subsumed by the criminal justice system, rather than being an active participant. This

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is frequently compounded by the lack of timely and accurate information and feedback being supplied to them.

26. Women's Aid stated its belief that the care and support of victims and witnesses of crime must be a central component of the criminal justice system in Northern Ireland. Victims must be afforded the dignity and respect they deserve and should be accorded fundamental rights which allow them to progress through the system in a manner which avoids compounding the trauma they have already experienced and enhances their ability to give best evidence. Women's Aid contends that there is considerable merit in formally and legally recognising the status of the victim in criminal proceedings and ensuring that specific rights and entitlements follow from this.
27. In written evidence the University of Ulster Restorative Practices Programmes (UU RPP) indicated that the current criminal justice system in Northern Ireland needs to be rebalanced to focus on the needs and interests of the victim as well as those of the offender and communities. As throughout the process victims have little or no part to play, their voices are seldom heard and their needs and interests are rarely addressed effectively. The UU RPP stated that Northern Ireland needs a comprehensive policy on victims of crime and an effective strategy for implementation to rebalance the criminal justice system. This does not imply the needs and interests of offenders should be neglected. It is UU RPP's submission that the recent EU Directive on Victims of Crime provides a structure for such a policy which should be subject to independent research and evaluation.
28. Victim Support NI believes there needs to be a behavioural change within the system as a whole, with organisations demonstrating more emotional intelligence in their interactions with victims and witnesses, highlighting that one of the key issues consistently raised is the position, status and dignity of the victim in the overall process.
29. From Victim Support's experience, treating victims with dignity and respect is the responsibility of every individual providing a service within the criminal justice system. Furthermore, Victim Support believes treating victims and witnesses with dignity and respect should be integral to the ethos and behaviours of every criminal justice organisation.
30. Victim Support states that the changes needed to the criminal justice system will not be fixed solely by the introduction of more policies and procedures. It is the individual interaction with victims and witnesses that make the difference and this will take more of a behavioural change within organisations as a whole. The underlying motivations of all the agencies of the criminal justice system should be to provide victims and witnesses with appropriate support in order for them to give their best evidence.
31. Victim Support believes that each organisation should be committed to causing no further harm to individuals affected by crime. This should become integral to their core business and be demonstrated through its inclusion in their strategic and business plans and through their leadership. Overall however the benefit will be achieved not from 'add on' policies and procedures but through a change in attitude, demonstrated through behaviour.
32. In its written submission NSPCC states that children who are victims or witnesses of abuse require a system which treats them with respect and is sensitive to their needs. A system which is insensitive runs the risk of causing further trauma to victims, impacting on their recovery and damaging their confidence in the criminal justice system as a whole as well as their ability to access justice.
33. SAMM NI in its evidence, identified what it describes as a serious flaw in the current approach, namely that all criminal justice agencies refer to the needs of victims and witnesses in their strategies, but there is no reference to the needs of families bereaved by murder and manslaughter. SAMM NI recommends that the needs of families should be acknowledged by all agencies they come in contact with during the investigation and court experience.



34. In its written submission the NI Policing Board stated that after a criminal offence has been committed, the victim's first contact with the criminal justice system is normally with the police. That contact will likely continue through the judicial process. The police response to the report of a criminal offence will therefore have a direct and often decisive impact on the victim's attitude to the criminal justice system and it is critical that the police treat all victims with compassion and respect for their dignity. They must ensure that the victim feels that the offence is being considered properly and is being taken seriously. Victims often feel a sense of frustration, fear and insecurity but police officers can make a real difference to a victim's experience as they progress through the system. Respect, compassion and understanding for victims should be the hallmark of police conduct.
35. The PSNI stated that it is committed to ensuring it provides a high standard of service to the victims and witnesses of crime and that this can be evidenced in its recently introduced 'Policing Commitments' which outline the minimum standard of service members of the public, including victims of crime, can expect from its officers and staff. One of the PSNI's key commitments is to ensure that members of the public are treated with dignity and respect.
36. The PSNI acknowledges and endorses the requirement to continually review the training needs of those officers and staff who interface with victims and witnesses on a daily basis and is currently working on a training package for all frontline officers.
37. In its written submission the PPS stated that there is now an increased awareness across society of the impact of crime upon the victim and also of the impact for victims of engaging with the criminal justice system. The PPS recognises the traumatic experience that the undeserved and unwanted involvement in a crime can bring for many people. Equally important is the increased realisation that how the victim is dealt with by the criminal justice system can have a profound effect on how that person can cope with the experience of crime.
38. The PPS went on to state that it recognises that there may be a perception among victims that there is no one to 'represent' them, while the accused is perceived to be fully represented. PPS notes the outcome of recent research which demonstrates that the key issues impacting upon victims and witnesses experiences of the criminal justice system can be summarised by a desire to be treated with sensitivity and respect, and to be provided with information about their case and the process. Whilst highlighting that some victim and witness dissatisfaction derives from the way in which the adversarial system operates the PPS indicated that there remained a necessity to address these key issues. It did however highlight the need to consider proportionality and the availability of resources.
39. The PPS stated that a simple explanation of minimum service provision for victims is set out in the interagency publication the Code of Practice for Victims of Crime.

#### **Single Point of Contact - Witness Care Units**

40. There is general acknowledgement amongst the criminal justice agencies and the advocacy organisations who gave evidence to the Committee that Witness Care Units (WCUs) will be key in managing the early identification of vulnerable and intimidated witnesses, securing appropriate support services and ensuring that information is communicated more effectively to victims and witnesses thus improving the service provided.
41. The 'one stop shop' initiative was recommended by CJI in its 2005 thematic inspection report *'Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System'*<sup>5</sup>. That report recommended that the Criminal Justice Board should set up a jointly owned victims and witness information unit which would act as a single point of contact to the criminal justice system to assist victims and witnesses with information on progress of cases and referrals to bodies for specialised support. The CJI report pointed to WCUs in England and Wales as models for consideration.

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5 <http://www.cjini.org/CJNI/files/ce/ceda45b5-8b15-4f7b-a2a4-9dfe1902eca4.pdf>



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42. In its most recent report on the care and treatment of victims and witnesses, published in December 2011, CJI expressed disappointment that, despite the recommendation being accepted and included in strategic action plans to implement the report recommendations, the initiative had not been progressed.
  43. CJI has again recommended the establishment of 'one-stop-shops' for Northern Ireland in the form of WCUs led by the PPS and using the existing Community Liaison Teams as the core basis for delivery. Inspectors outlined that in their view *'an amalgam of PPS CLTs, elements of the PSNI R4model (in terms of victim contact and updating), NICTS CPOs and VSNI can provide a vehicle to achieve a WCU ('one stop shop') facility which will significantly enhance the experience of victims and witnesses.'*
  44. Following the publication of the report the Minister of Justice accepted the recommendation and stated that work in relation to the establishment of WCUs would be taken forward.
  45. In its written and oral evidence the PPS confirmed it is the lead organisation for the introduction of a WCU model for victims and witnesses in Northern Ireland. The PPS outlined that work has been undertaken with the PSNI which has identified a number of good practices which can be imported from elsewhere.
  46. The PPS stated that it is anxious to ensure that the introduction of WCUs leads to substantive, positive change in the level of service offered to victims and witnesses and there may be opportunities to provide a higher level of service here than is currently available in England and Wales. For example, the Causeway system would enable a WCU in Northern Ireland to deal with a case from an earlier stage and to a later stage than is possible in England, where such an integrated IT system is not presently available. In Northern Ireland the witness care officer, could, in due course, provide information in relation to matters such as the details of custodial sentences, release dates etc. enabled through partnership working with the Probation Service and the Prison Service. A further development of this model may be to have a dedicated witness case officer for the WCU at court to facilitate the coordination and handling of witness care issues in a holistic manner. This would build upon the existing working relationships with Victim Support and the NSPCC.
  47. In its submission the PSNI strongly advocates the establishment of WCUs within Northern Ireland as a means of delivering an appropriate, seamless, efficient and effective service to victims and witnesses across the Crown, Magistrates and Youth Courts. The PSNI described the scoping work it has already carried out regarding the establishment of WCUs which includes identifying possible unit locations, business models, process and procedures. As a result the PSNI recognises the success of such units are heavily dependent upon the joint development, staffing and management with the PPS.
  48. The Probation Board for Northern Ireland (PBNI) is of the view that a singular interface for victims is the most effective means of providing accurate, timely information about the criminal justice system. PBNI states that, in real terms, this means the amalgamation of existing Victim Information Schemes and bringing into a singular entity the provision of support services for witnesses.
  49. The PBNI also states that an integrated service for victims after an offender has been convicted could lead to the development of appropriate technology to exchange information with victims and witnesses, and also provide a single point of contact for more general information (helping to raise awareness and thus confidence).
  50. The PBNI highlights that information provided to victims post-conviction may be more effectively delivered on an 'opt out' basis (rather than the current 'opt in' requirement). That is, unless otherwise specified, victims will receive information about the sentence given to an offender and their progress.
  51. The written submission from the Office of the Lord Chief Justice states that the judiciary would welcome the establishment of WCUs as it considers that such Units would significantly
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- improve the experiences of witnesses through the system. It should also improve the level and consistency of contact which the PPS/PSNI have with a victim, and this will ensure that accurate information about witnesses needs and their availability will be before the court at the earliest possible opportunity.
52. Both Victim Support and Women's Aid state that whilst recognising the importance for agencies to have autonomy and independence a victim or witness trying to navigate their way through this system can find it extremely difficult and complex.
53. Victim Support believes victims should be afforded better support and information from their initial contact with the system to when this ends. Part of this end to end support should also be the establishment of WCUs to both assess need and provide information to those attending any criminal trial before, during and after hearings.
54. In its submission SAMM NI provided examples of the day-to-day financial and practical problems facing families who have suffered a bereavement and invited the Committee to study international best practice in the provision of liaison officers who act as 'gatekeepers' for families.
55. Much of the evidence heard from the individuals who gave evidence to the Committee describes the frustration of victims, witnesses and their families regarding their inability to gain access to information, services and support. Many felt their lack of understanding and experience of the criminal justice system was a barrier to their effective participation in the process.
56. In written evidence one victim of crime stated that *'a great difference in all of this would have been more support. I was left alone with no contact or someone to explain things to me. I had to arrange my own counselling to get any support at all.'*
57. In an oral evidence session with individuals facilitated by Victim Support, one family stated there was a need for liaison for families and there was an absolute gap in provision. In their own words – *'Overall, we thought that what would improve the system would be a dedicated liaison officer: someone who would act on behalf of the family . . . we think that we need someone who has access to all parts of the process, including the agencies, and who has a right to ask for updates.'*
58. The family also stated that the only way they could ensure that they were kept up to date with progress in relation to the court case was to attend every single mention in the Magistrate's Court. *'Every time we went to court, they told us when the next court date would be and whether it was a mention or a trial date or whatever. Other than that, no one told us.'* They went on to say *'You need someone there to fill you in on what is happening — not necessarily on the details of the case, because there is a lot of confidentiality — why it is happening, and what the process is, and to support you in that way.'*
59. The family described how they had to seek out and form relationships with officials from the various agencies as their case progressed through the system in order to gain access to information. Now that the court case concerning their relative was over, they understood that an appeal had been lodged in respect of the case and again they had no information on the appeal or the process.
60. To view at first-hand the types of facilities and services available to witnesses, and to explore areas that could be built upon to offer an enhanced service to victims and witnesses of crime in Northern Ireland in March 2012 the Committee undertook a visit to the West Yorkshire Witness Care Unit based in Bradford.
61. The visit provided the opportunity to meet with the key leads from each of the criminal justice agencies to discuss the strategic management and operation of the WCU. Committee Members also met with Unit Managers to discuss the practicalities of managing a multi-agency Unit and availed of the opportunity to gain actual experience of the service provided to

witnesses by spending some time with on-duty witness care unit officers as they carried out their duties.

### **Communication and Information Provision**

62. The evidence received from advocacy groups and individuals clearly indicates that one of the key issues facing victims and witnesses is in obtaining timely and regular information in relation to their individual case. A family member of a victim stated – *'It is this business of the communication gap. You need reassurance and to know the details. You need to be kept informed if you want to be informed. I imagine that some people do not want to know but most people would probably want to know. You have a right to that. You are a key person in the trial: either you are the victim or the family of the victim. It is important that the system includes you.'*
63. The Committee heard evidence that victims and witnesses find the criminal justice system confusing and complex and are not receiving clear, concise and timely information at each key stage of the process. The quality and detail of the information that is provided, and access to this information, is inconsistent and adhoc across the system and within each of the criminal justice organisations and there is a lack of clear demarcation of responsibility for communicating particular information.
64. The lack of a pro-active approach to communicating information by the criminal justice agencies was repeatedly highlighted. In the words of one individual *'throughout the 2 years of the legal process I constantly found myself having to chase information'*. Not being kept up-to-date with case progression was a criticism levelled at the PPS in particular. The Committee were given examples such as one individual not being informed of a 'decision to prosecute', and another having to wait eight months *'to be told there wasn't enough evidence for reasons I found unfair, in a cold patronising letter'*.
65. Other individuals who spoke to the Committee said they were not informed of court dates, including bail hearing dates. This resulted in two of the individuals who spoke to the Committee having no information about the bail conditions attached to the defendants involved in their cases. Another family described attending every court hearing as their only means of ensuring they were kept informed of what was going to happen next. Yet another family referred to a further breakdown in communication regarding a particular court date when the defendant in the case pleaded guilty. The family had no prior indication of this possibility and consequently a number of family members (who would have wished to be present) were absent from court. The family described the very devastating effect this had on them.
66. Many of the individuals who spoke to the Committee felt they had no rights or entitlement to the information they wanted and that information gained was on a *'favour basis'* by forging their own contacts within each of the criminal justice organisations – *'lack of communication was the biggest issue with which we had a problem. Nobody told us anything. We tried really hard to build bridges and to make contacts in order to get an answer from anybody.'*
67. One family described in an informal meeting with the Committee, their experience of a lack of pro-active communication throughout the process and wished to emphasise that families need to be kept updated on a regular basis even if nothing is happening. The family stated: *"People are misinformed, ill-informed or not informed at all"* and went on to highlight the need for verbal information to be followed up with written information as people often do not pick up properly what is being said when they are traumatised.
68. Other difficulties faced included:
- A lack of knowledge and understanding of the criminal justice process which resulted in key milestones in the process passing without their awareness, eg the 28-day limit within which an appeal on grounds of leniency in relation to a sentence must be made.
  - Having to deal with a lack of knowledge in relation to their individual case by the criminal justice organisations themselves. Examples of this was the gaps in knowledge caused

by police investigation officers changing during the course of one case and the Family Liaison Officer changing in another. Also different prosecutors dealing with the case as it progressed through the court system. The resulting inconsistency in approach and the requirement on the part of the victim and/or their families to retell their story on a number of occasions was difficult for those involved.

69. Proposals by individuals who have experienced the system to improve communication include the provision of a dedicated liaison officer — someone who would act on behalf of the family, has access to all parts of the process, including the agencies, and who has a right to ask for updates; the provision of a simple and easy to understand flowchart explaining case progression through the criminal justice system and in particular case progression through court; the introduction of a policy to ensure victims receive a transcript of any bail conditions set by the Court for offenders; and that access to information should be provided on an equal footing to both defendants and victims including copies of statements made by the accused in advance of any court proceedings.
70. From its research and work with victims, Victim Support NI has identified the provision of timely and appropriate information as one of the things victims most want from the criminal justice system. In its submission Victim Support stated that very often individuals become increasingly frustrated and despondent when more and more time passes with no contact or information from the relevant criminal justice agency. A lack of information can often make victims feel that their case is not being taken seriously when often the opposite is the reality.
71. In their written submissions both Women's Aid and Victim Support recommended that all communication with victims of crime should be done in a way which is personable and tailored to the individual's level of literacy, language and capacity to understand and that individuals should be afforded the opportunity to ask for clarification and receive this clarification in a reasonable amount of time. Women's Aid also recommended the establishment of clear and concise communications protocols within the criminal justice system defining whose responsibility it is to communicate important information and decisions to the victim.
72. The Law Society in written evidence advocated the importance of victims being kept informed throughout the process of investigating and prosecuting a case. The Society highlighted the complexity in relation to prosecutorial decisions and the range of subsequent sentencing options and suggests that more could be done to ensure the victim and/or their family fully understand the decision making process and the purpose of non-custodial sentences in particular.
73. In oral evidence the Northern Ireland Council for Ethnic Minorities (NICEM) also highlighted lack of clarity regarding responsibility for advising victims and/or their families regarding sentencing and the opportunity to appeal and the time constraints involved. NICEM used the example of a case of racial murder for which sentencing took place just before the Christmas holiday period and lack of knowledge regarding the time limitation led to an appeal application being prepared in just four days. NICEM recommended a mandatory requirement that victims be informed of their rights if they feel that sentencing is too lenient.
74. In its submission the UU RPP emphasised the adverse effect on victims not being kept informed about progress on detecting and prosecuting their case and recommended that victims should be routinely updated by the PSNI or the PPS on case progress and given a contact point which they can use proactively.
75. The UU RPP also highlighted that some victims do not understand how sentences are determined in their cases, are excluded from the 'deals' that are negotiated between the prosecution and defence over charges, pleas and anticipated sentences and have no access to pre-sentence reports. The UU RPP recommended that a victim advocate should be available to explain to victims the sentencing process, inform them of the key issues being addressed in the process and represent victims' views and interests.

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76. It went on to state that victims may wonder about what effects the sentence has had on the offender and highlights that victims have a strong interest in not only their own safety but also in the protection of other potential victims. The UU RPP expressed the view that those agencies responsible for the implementation of court sentences should provide a report at the completion of the sentence on the offender's participation in the sentence and its outcome in relation to the reduction of risk in reoffending and that, towards the completion of custodial sentences in the cases of serious violent or sexual offences, victims should be informed about the arrangements for release and risk management in relation to the offender and kept informed on any breaches of changes in these arrangements.
77. Women's Aid is of the view that there can be an assumption that a victim and/or witness is able to recognise and understand the key components of the criminal justice system and that this is not always the case. Women's Aid has provided support to women, who have not understood the basic roles and functions of the PPS and have been confused by the use of legal terminologies and the failure to fully and clearly explain decisions. In oral evidence Women's Aid stated that victims are often not informed of, or aware of, bail conditions or the serving of non-molestation orders.
78. This was reiterated by the parent of a victim who advised the Committee that the family were not advised of a bail hearing and was therefore not present in court to hear bail conditions. They were subsequently advised that information could not be released to them on the bail conditions even though these were read out in public session and would be released in response to a media enquiry.
79. In oral evidence SAMM NI stated that the information that bereaved families get is very patchy particularly during the period when the case goes to the PPS. SAMM NI also went on to highlight the lack of information about the appeal process as there is no mechanism for informing families directly that an appeal has been lodged.
80. The PSNI stated in its submission that it is continually working to improve communications with victims with a view to ensuring such contact is consistent, both in terms of quality and frequency. A recently introduced programme to improve the victim update process ensures victim updates are 'flagged' at 10 days, 30 days and 75 days. The programme is audited for compliance and quality. The new victim update process also ensures victims are informed when a case cannot be 'taken any further'. It also described other methods of information provision to victims including ensuring victims are aware of the support services available to them and the provision of support and communication through the use of Family Liaison Officers in cases of murder, manslaughter, road death and other serious crime.
81. The PSNI stated that it recognises the negative impact of inconsistencies in service provision across the justice system on victims and witnesses in relation to communication and plans to work in cooperation with the PPS to ensure written communications carry consistent messages.
82. The PPS stated that it recognises the importance of information provision and is committed to ensuring that victims are kept informed of case progress. Within its written submission and in oral evidence to the Committee the PPS identified the key stages when it provides written communication to victims and/or their families, ie at the time of charge in cases of death; on receipt of case file from police in indictable cases; when a decision whether or not to prosecute is made (with explanation in particular cases); court attendance dates and case outcome and the type and level of information covered.
83. It emphasised that in giving reasons, a balance must be struck between the proper interests of the victim and other concerns, such as damage to the reputation or other injustice to an individual, the danger of infringing upon the presumption of innocence or other human rights and the risk of jeopardising the safety of individuals.
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84. The PPS advised that a review of its correspondence to victims and witnesses has almost concluded and has involved consultation with key stakeholders from the voluntary sector. It is also currently examining the circumstances in which the reasons for no prosecution decisions can be given in an increased range of cases.
85. During the oral evidence session with the criminal justice organisations, the Committee questioned PPS officials on the rationale for using Police Family Liaison Officers to communicate prosecutorial decisions to families in cases involving a death, and questioned whether it would be more appropriate for Police Family Liaison Officers to be accompanied by a PPS representative. In response the PPS officials explained that the decision to use Police Family Liaison Officer's in this way was because of the relationships these officers establish with bereaved families. The PPS confirmed it follows up the Police Family Liaison Officers contact with a letter containing further information and providing a point of contact for the family and that in every serious case PPS offers a meeting to explain decisions of no prosecution.
86. The PPS described the establishment of Community Liaison Teams (CLTs) as the most demonstrable change in service provision since the setting up of the PPS. These CLTs are dedicated to providing information to victims and witnesses and were developed to meet the need for victim and witness liaison in the Magistrates' and County Courts. The principal functions of CLTs are to check witness availability; send out documentation regarding attendance at court, including the services offered by Victim Support Witness Service; and answer general queries a witness may have.
87. There are however limitations as PPS has not been resourced to deliver CLT services in the Crown Court where police retain a significant role in witness liaison and whilst current arrangements provide for witness attendance at court, they do not extend to the delivery of services at court or to providing assistance at the post court stage. The PPS identified that a potential further development in CLT service provision could involve the establishment of a PPS dedicated support officer to carry out a meet and greet role at court and to deal with witness queries which arise there.
88. The PPS also acknowledged that it does not have a system at the moment for informing every single victim of every single court hearing, but is introducing a victim information portal (an online information system) designed to do exactly that for people who want to be told about every single hearing in a case.
89. In its written submission the Probation Board for Northern Ireland (PBNI) explained how it currently engages with victims of crime through the provision of its statutory Victim Information Scheme and the preparation of reports for the Parole Commissioners in relation to life sentence cases which enables the victims' families to have their say regarding concerns they may have on a prisoner's release under PBNI supervision.
90. PBNI stated that the way in which the criminal justice system engages with victims of crime needs to change. PBNI highlighted the common concerns it hears from victims about lack of timely information, lack of on-going contact and confusion about entitlement to accessing information. In its submission PBNI advocated for a single interface for victims, i.e. the amalgamation of existing Victim Information Schemes.
91. PBNI believes that it is well placed and wishes to play its part in the provision of services to victims including providing victims with specific and tailored information about their particular case. PBNI stated that it wishes to be part of an integrated service to victims which operates on an 'opt-out' rather than 'opt-in' basis as currently victims must pro-actively register with PBNI's Victim Information Scheme in order to receive its services. PBNI are concerned that the current system is unwieldy, adds unnecessary delay and prevents PBNI from providing timely and accurate notification to victims.

**Collation of Information/ Research on the Experiences of Victims and Witnesses**

92. The Committee heard evidence from a number of the advocacy groups that detailed research and information on the experiences of victims and witnesses, particularly in relation to serious crimes, is not readily available. The information that is collated does not identify the level of service provided by each of the criminal justice organisations at the different stages of the process or enable specific issues relating to a particular organisation to be identified to enable appropriate action to be taken. There is also a lack of detailed research and information on the reasons for, and levels of unreported crime, why cases do not proceed, and patterns of crime against particular groups.
93. In its written submission the National Society for the Prevention of Cruelty to Children (NSPCC) stated that the collation of information crucial for policy development in relation to child victims is not currently available. At present official statistics are not able to identify the reasons why cases do not proceed and the differential impact this has on various groups of victims. Additionally, essential information on the nature and type of crime against children and young people remains unknown in the vast majority of cases. The NSPCC also highlighted that although the Northern Ireland Victim and Witness Survey (NIVWS) provides a detailed overview of experiences of crime within NI, it currently does not routinely include under 18's, nor does it address violent or sexual offences.
94. The NSPCC recommended that current information management systems should be developed to allow for the recording of alleged offender details in undetected cases to facilitate better understanding of the nature of crime against children; better use of current criminal justice system information management systems is needed to inform key strategies and to monitor levels and patterns of crime against children as well as case outcomes; and the introduction of mechanisms to gather information from child victims about their experiences of the criminal justice system is required. This should take particular account of vulnerable groups such as those who have been the victims of sexual crime, disabled victims and those who have been subject to violent crime perpetrated by parents/caregivers.
95. In their written submissions to the inquiry both Victim Support and Women's Aid draw attention to the limitations of the NIVAWS and point out that a number of categories of crime are ineligible for inclusion. These offences include domestic violence and sexual offences as well as crimes which involve a fatality. Whilst Victim Support acknowledged that cold call telephone interviews may not be the most appropriate methodology to capture the experiences of such crimes, both organisations recommended that appropriate methodologies for recording the experiences of these victims in a sensitive manner should be fully explored. Women's Aid further recommended that systems should be put in place to accurately record repeat victimisation and patterns of offending, particularly in respect of crimes such as domestic violence.
96. Both Victim Support and Women's Aid highlight that satisfaction levels measured by the NIVAWS was an indicator of the collective level of satisfaction of the contact victims and witnesses have had with the criminal justice system as a whole and therefore it is not possible to glean further information in terms of the level of satisfaction with individual criminal justice organisations and agencies. It is the view of both organisations that the standard of service provided to victims and witnesses varies from agency to agency and differs depending on the type of crime experienced.
97. Victim Support and Women's Aid recommended that each criminal justice organisation should have a separate target of victim and witness satisfaction and share the view that there needs to be a more systematic and consistent collation of the experiences of victims and witnesses across every stage of the criminal justice system. This should be recognised as a key measure of quality of the criminal justice system in Northern Ireland.
98. In their submissions Victim Support and Women's Aid voice concern that the budget for the NIVAWS survey has been withdrawn. Both organisations recognise the need for more Northern

Ireland based research into victims' and witnesses' experiences and Victim Support has called for assurances that an alternative method of capturing the experiences of victims and witnesses will be introduced as a matter of priority.

99. In its written submission NICEM highlighted the underreporting of hate crime as a matter of concern. NICEM stated that despite efforts both at institutional and community level to encourage reporting, there is still a significant level of under-reporting of these types of crimes. NICEM suggested that confidence building and addressing barriers to reporting should be part of the specialised services to address the needs of the victims of racial hate crime.
100. The NI Policing Board (NIPB) stated that a lack of disaggregated data means it is difficult to give a true picture of the nature and extent of domestic violence across Northern Ireland. In its 2009 thematic review on *Victims of Domestic Abuse*, NIPB recommended that the PSNI should record, for every reported incident, the gender of both victim and perpetrator, the relationship of the victim to the perpetrator, the ethnicity of the victim and perpetrator and whether the victim is an adult or a child.
101. NIPB goes on to state that PSNI has produced that information in respect of recorded crimes (but not incidents only) and in respect of offenders of detected crime for 2009/10 and 2010/11. NIPB also highlighted concerns of stakeholders as to why statistics do not reflect cases from arrest to sentencing and whilst appreciating the different recording systems means that statistics cannot always be aligned, would welcome more joined up data in respect of domestic abuse.
102. NIPB also highlighted in its submission that paramilitary style punishment shootings and attacks are a very real problem for some young people living in Northern Ireland. NIPB stated that anecdotal evidence collected during its thematic review on *'Children and Young People who are Victims of Crime'*, suggests that people are reluctant to report this type of crime to police and that statistics do not give the full picture.

### **Accountability**

103. In the evidence considered by the Committee it is apparent that there is no clear understanding of the level of service that victims and witnesses are entitled to and who has responsibility for delivery. Some of the advocacy groups were concerned that there are no processes in place to adequately measure the performance and service delivery of the individual criminal justice system organisations in relation to victims and witnesses and there is a lack of clarity around how these organisations are held to account. The advocacy groups who provided commentary on these issues were keen that the criminal justice agencies demonstrated their commitment to improving the experience of victims and witnesses in tangible, measurable actions.
104. In their written submissions Victim Support and Women's Aid discussed the NIVAWS as a measure used by government to gauge the effectiveness of the criminal justice system by recording the satisfaction rates of individuals affected by crime. Both organisations highlighted that the satisfaction levels measured by the NIVAWS indicates the collective level of satisfaction of the contact victims and witnesses have had with the criminal justice system as a whole and it is therefore not possible to glean further information in terms of the level of satisfaction with individual criminal justice organisations and agencies.
105. It is the view of both organisations that the standard of service provided to victims and witnesses of crime varies from agency to agency as individuals travel through the system. They recommended that each criminal justice organisation should have a separate target of victim and witness satisfaction, there needs to be a more systematic and consistent collation of the experiences of victims and witnesses across every stage of the criminal justice system and that this should be recognised as a key measure of quality of the criminal justice system in Northern Ireland.



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106. Victim Support recommended that all criminal justice agencies should be required to demonstrate commitment through their strategic and business planning processes to the continued improvement of the experience of victims and witnesses. It should be seen as integral to the core business of the organisation rather than as a parallel agenda; and that all developments in the criminal justice system with regards to victims and witnesses should be evidence based and where evidence does not exist the initiative should be trialled and evaluated in Northern Ireland. Victim Support also recommended that any organisation changing procedures within the criminal justice system should be required to consider and demonstrate the impact on victims and witnesses.
107. One individual who provided a written submission to the Committee stated his view that the PPS should come under the auspices of the Attorney General to provide oversight and governance and that an independent complaints mechanism should be introduced for victims, rather than the PPS being the final arbiter on complaints about their own procedures.
108. In its written submission the CAJ provided information on its response to the Department of Justice's consultation on a Code of Practice for Victims of Crime. CAJ welcomed the commitment shown by the Department of Justice to victims of crime, as illustrated by the consultation, and stated that the provision of appropriate and adequate services to victims could improve public confidence in the criminal justice system and contribute to a more peaceful society. CAJ suggested that the name 'Code of Practice' was inaccurate, as the document was in fact an outline of the service provision victims can expect, rather than a 'Code of Practice' *per se*. The CAJ also suggested that a similar document be disseminated to practitioners within the criminal justice system, given the need to understand the policies and practices relating to services for victims. The CAJ believed that the Code fell short of human rights standards and best practice, most notably in relation to the rights of victims, co-ordination of agencies, complaints, language and monitoring.
109. The Police Service of Northern Ireland stated in its written submission that it is committed to providing a high standard of service to the victims and witnesses of crime. This can be evidenced in the recently introduced 'Policing Commitments' which outline the minimum standard of service members of the public, including victims of crime, can expect from officers and staff. The PSNI also provided details of ways in which standards and service delivery is measured including its work with its Criminal Justice partners in the development and delivery of a 'Causeway' based management information system which will allow the review and monitoring of performance against Criminal Justice System case submission targets and to collegiately improve performance management across the system.
110. The PSNI also stated that it recognised the negative impact that inconsistencies in service provision across the justice system can have on victims and witnesses. The PSNI described in its submission some of the efforts it and the PPS are taking to improve consistency and to define responsibilities in the development of new interagency Service Level Agreements regarding the management of victims and witnesses at each stage of the court process and to ensure that communications at each stage are consistent.
111. In its written submission the PPS states that a simple explanation of minimum service provision for victims is set out in the Code of Practice for Victims of Crime. The PPS has developed a complaints system with an Independent Assessor as well as a proactive programme of community outreach aimed at raising awareness of the role and operation of the PPS.
112. The PPS also confirms that independent counsel instructed to act on behalf of the PPS are subject to the same guidance as employed PPS staff and to the PPS Code of Ethics. Advocacy standards have been agreed with the Bar Council which incorporates a requirement to adhere to PPS policies on victim and witness care.
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113. In its written submission the Probation Board for Northern Ireland stated that its activities are delivered to clear standards and service requirements and in accordance with best practice principles. These standards are agreed with the Department of Justice and Lord Chief Justice.

#### **Support Provisions and Special Measures**

114. A number of the advocacy organisations and criminal justice organisations provided evidence on the current provision of support services and special measures within Northern Ireland. Individuals who spoke to the Committee also provided commentary on the support, or lack of support, they encountered as they progressed through the system. Views were expressed regarding the requirement for early identification and assessment of individual need, the provision of adequate training for staff in the criminal justice organisations who have contact with victims and witnesses, greater resources - particularly in relation to the availability of counselling/therapeutic services and translation services, and the need to provide specialised support to address the specific needs of particular categories and groups of victims and witnesses.

#### **Special Measures**

115. Special measures are provided for in the Criminal Evidence (Northern Ireland) Order 1999, as amended by the Justice Act (Northern Ireland) 2011, to assist vulnerable and intimidated witnesses give their best possible evidence in criminal proceedings. There are eight special measures: screening witness from accused; evidence by live link; evidence given in private; removal of wigs and gowns; video recorded evidence in chief; video recorded cross-examination or re-examination; examination of witness through intermediary; and aids to communication.<sup>6</sup>
116. In its April 2012 report on *'The use of special measures in the criminal justice system in Northern Ireland,'*<sup>7</sup> CJI Inspectors highlighted that special measures are of vital importance in helping vulnerable and intimidated witnesses. The report identified detection of vulnerability, individual needs assessments and improved communication as key areas requiring priority attention by the criminal justice agencies. A further key recommendation arising from the inspection was the need for a Witness Charter in Northern Ireland which *'would provide clear and transparent information for witnesses on what to expect from the criminal justice system, help in setting out the commitments of the system for witnesses, and provide a readily accessible document which will assist both witnesses and staff.'*
117. Both Victim Support and Women's Aid believe there is a general lack of awareness surrounding special measures provisions including their eligibility, usage and who is responsible for applying on behalf of the vulnerable or intimidated individual. Both organisations believe it is essential that victims and witnesses are afforded the assistance they require in order for them to give their best evidence in a manner that causes them the least distress.
118. CAJ stated in its submission that the provisions provided for in the 1999 Order permitting video recorded cross-examination or re-examination of witnesses raised serious questions, as these could lead to conflict between the rights of victims and witnesses and the rights of defendants and would welcome clarity that there is no proposal to commence this provision.
119. CAJ also highlights that the 2011 Act amends the 1999 Order to provide that a court must admit a video recorded statement of the complainant as evidence in chief, unless the court is of the opinion that, in all the circumstances of the case, it would not be in the interests of justice for the recording, or part of the recording, to be admitted. The court can also refuse to admit the recording in evidence if the court is satisfied that this would not maximise the quality of the complainant's evidence but this section of the 2011 Act has yet to be commenced.

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6 <http://www.dojni.gov.uk/index/media-centre/ford-welcomes-cji-report-on-special-measures-for-victims-and-witnesses.htm>

7 <http://www.cjini.org/CJINI/files/e6/e684b2e9-231e-4c06-b496-5b744e10c0cb.pdf>

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120. The PSNI acknowledges and endorses the requirement to continually review the training of those officers and staff who interface with victims and witnesses on a daily basis and is currently working on a training package for all frontline officers. This training (which was due to commence in December 2011) is designed to assist officers in understanding their responsibilities and in particular to assist in identifying and supporting vulnerable and intimidated witnesses. The training will cover 'Special Measures' and 'Achieving Best Evidence'.
121. The PSNI is currently undertaking a review of the technical changes and upgrades needed to ensure full factual and timely information in relation to special measures or victim vulnerability is transferred to relevant PPS staff.
122. In written evidence the PPS states that Prosecutors are trained in special measures so that applications are made in all cases where the witness is eligible and wishes to use special measures to give their evidence. The PPS is an active member of the interagency group which has recently developed new guidance for practitioners on the use of special measures and is also working on the introduction of an Intermediaries Service for Northern Ireland to assist witnesses with communication difficulties give evidence.
123. One individual in oral evidence described how she was cautioned in relation to her application for special measures. She was advised that if she did not get special measures and could not take the stand that was it. *'I was devastated. I thought that because I was not strong enough to take the stand, my uncle would be able to walk away.'* She went on to advise the Committee that her experience of the special measures she was granted – giving evidence by video link and coming into the courthouse through a separate entrance (to avoid contact with the defendant) was positive and beneficial for her.

#### **Other Support Provisions**

124. The Department of Justice's *'A Guide to Northern Ireland's Criminal Justice System for Victims and Witnesses'* published in May 2010 outlines details of the two witness services available in Northern Ireland provided by Victim Support and NSPCC and funded by the Department. Both services provide information and support to victims and witnesses before, during and after trial. The Guide states that the aim of these services is to help prosecution victims and witnesses, and their families and friends, to deal with the experience of going to court and giving evidence.
125. The NI Assembly Research Paper *'Victims and Witnesses in the Criminal Justice System: Good Practice'*<sup>8</sup> highlights that the provision of support services by voluntary organisations to victims of crime has been identified as good practice, with particular mention given of Victim Support in England and Wales and in Northern Ireland. Victim Support Northern Ireland (VSNI) provides a free and confidential service to victims of crime and assists almost 30,000 people each year.
126. The Department of Justice is the principal funder of VSNI, providing core funding of £2.2m in 2010/11. During the period 2009/10 VSNI received 26,453 victim referrals, assisted 2,107 claimants for criminal injuries compensation and provided support for 7,109 victims and witnesses at court.<sup>9</sup> The Department is also the principal funder of the NSPCC Young Witness Service providing £373,000 in the last financial year<sup>10</sup>.
127. The Criminal Justice Inspection NI 2011 report on *'The care and treatment of victims and witnesses in the criminal justice system in Northern Ireland'* found that the unique reaction of victims to the crime that has been perpetrated against them *'makes it difficult for agencies to adopt a 'blanket approach' for service delivery, but emphasises once again the need for*

8 <http://www.niassembly.gov.uk/Documents/RaISe/Publications/2011/Justice/17311.pdf>

9 <http://www.niassembly.gov.uk/Documents/RaISe/Publications/2011/Justice/17311.pdf>

10 <http://www.cjini.org/CJNI/files/c3/c3a0fb11-e230-4d73-97e9-002c200e277a.pdf>

*effective partnerships with the voluntary sector. Further this underlines the need to ensure the provision of both general support and specialist assistance is accessible to help the victim as they enter the criminal justice system through reporting a crime to the PSNI'.*

128. The report suggests that *'VSNI should be regarded as the first key reference point of contact for victims by those in the criminal justice system. In turn, those who need additional or specialist support can be referred onwards. . . .a focus on greater clarity of responsibility and consistency of service delivery will undoubtedly improve the experience of victims.'*
129. In written and oral evidence, Victim Support highlighted the difficulties it encounters in approaching victims, witnesses and families because of data protection considerations. Individuals must consent to being approached and it is an opt-in, rather than an opt-out system. This prevents Victim Support from offering support and services to all who may need it.
130. Victim Support states that the needs of individuals can often be overlooked and there can be a lack of understanding or consideration of the impact of the crime and the subsequent impact of engagement with the system. It believes the needs of victims and witnesses can be better identified and met if ameliorating the effect of crime becomes a priority not just what is required to maintain the injured party as a witness.
131. Victim Support and Women's Aid recommend there should be a *'care pathway'* for all individuals travelling through the criminal justice system. An important aspect of this would be the provision of individually tailored support and advocacy through the early and on-going identification of individual need. Both organisations also make the case for more support and effort to be made within the system to establish an accurate picture of attrition and to prioritise addressing these issues.
132. Victim Support welcomes the announcement of the Intermediaries Service to assist vulnerable victims and witnesses but would caution that the success of such a role will be dependent on the awareness and skills of organisations front line staff to identify and respond appropriately to victim and witness need.
133. SAMM NI highlights that trauma experienced by bereaved families can often be exacerbated by the criminal justice services. SAMM NI asked that the Committee satisfies itself that enough is being done to ensure all criminal justice agencies are aware of, are trained in, and take account of, families suffering from trauma as they engage with the criminal justice system, to scope the provision of trauma support provision, to ensure adequate reach, including an analysis across geographic and age group provision. SAMM NI asks that consideration is given to the establishment of a fund targeted specifically at purchasing services on an individual need basis, including trauma support.
134. In its submission the UURPP states that victims need services whether the offender is apprehended or not and commends the work of Victim Support and other such organisations that provide specialist support services to victims of crime. UU RPP believes that these organisations should receive adequate long-term funding and that those working in these organisations should receive appropriate accredited training.
135. In its written submission the PSNI describes services it provides for the support of victims including information provision, referral and cooperative working with Victim Support, the use of family liaison officers and the use of specially trained teams who deal with cases of child abuse and rape. It will also continue to work with the Department of Justice on the use of registered intermediaries to support the needs of victims and witnesses and has appointed a service *'Intermediary Champion'*.
136. In oral evidence the PSNI stated that whilst there are provisions in place to ensure that victims of specific crime types receive support more work is needed in those cases that do not fit a specific crime type and that a one-size-fits-all solution will not address the diverse needs of victims.

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137. The PPS points to its partnership work with Victim Support's Witness Service and NSPCC's Young Witness Service in terms of provision of service to victims and witnesses within the court setting and the development of a PPS electronic system of referrals to Witness Service.
138. Despite the range of services and measures in place the Committee heard evidence from many individuals that they did not feel they received the support they needed as their case progressed through the criminal justice system. This was particularly evident in relation to more serious crimes and for bereaved families. Views were expressed that offenders are provided with expert support and services to help prevent re-offending, yet the victim is left to deal with the impact of the crime on their own and for them to obtain help for themselves.
139. Skills for Justice provided evidence on its work on the development of national occupational standards for those who work with victims and witnesses of crime. These include specialist standards relating to witness care, domestic and sexual violence, and new national occupational standards on the role of independent sexual violence advisers. The national occupational standards describe competent performance, identify the knowledge and skills that workers need to achieve that performance and allow a clear assessment of that competence across a range of workplace situations. The development of those standards is based on collaborative working between Skills for Justice and the whole vocational sector. The national occupational standards are used to define roles and the knowledge and skills that are required to perform those roles, ensuring consistency in service delivery.
140. It is also developing a skills framework for those who work with victims and witnesses of crime which aims to define the required competences for employees and volunteers operating across the workforce. In the longer term, a framework could support the development of a specialist register of workers in areas such as domestic and sexual violence. It may also link to article 24 of the EU Directive around minimum standards on the rights, support and protections of victims of crime.

#### ***Children and Young People***

141. CAJ agreed with a proposal to permit young people to have a say in how they give their evidence and as to whether they want to avail of special measures at all. However it is concerned that the provision within the 2011 Act appears to place the onus on the child witness to inform the court of their wish for special measures not to apply to them. Whilst CAJ recommends that this section be commenced it urges that in practice the decision as to whether special measures should not be applied should occur as a result of an inquiry undertaken by the court, without the child necessarily having to bear responsibility for instigating it.
142. CAJ supports the provision to enable a supporter to accompany a witness when giving evidence via live link room. However, it again highlights that this section of the 2011 Act has not yet been commenced.
143. NSPCC highlighted the success of the Young Witness Service pilot of a Remote Live Link to the Londonderry (Bishop Street) Courthouse. The recently published evaluation of the pilot service found that the remote nature of the live link reduced fear and stress in young witnesses which in turn led to more young witnesses being able to provide their best evidence and more cases being completed. The report recommended that the use of remote live link should be extended to all courts throughout Northern Ireland and the facilities in use by NSPCC YWS in Derry/ Londonderry should be used as a model of good practice to help the implementation in other courts.
144. The Committee for Justice visited the NSPCC and Victim Support NI premises in Bishop Street and viewed for itself the live link facilities. There was general agreement amongst Members that the remote location of the live link facility from the court is undoubtedly beneficial to the young people and other witnesses using this facility.



145. In its written evidence the NSPCC also states that support for victims is essential, and perhaps especially in cases that do not proceed past the investigative or PPS decision making stage. While there are specific support mechanisms in place for young witnesses whose cases go to court, support for the vast majority of child victims whose cases do not proceed is much more ad-hoc. NSPCC recommends the introduction of advocates/supporters, similar to the Independent Sexual Violence Advisors in England, for all child victims of violent crime and their families as means of providing support from the point of report and sign posting to other services.
146. NSPCC also presented evidence in relation to a requirement for the greater provision of therapeutic support for children and young people pre and post-trial and recommends that a regional approach to commissioning therapeutic services should be developed to ensure that all children and their families are able to avail of this as and when needed.
147. The UU RPP is concerned about the lack of services available for young victims of crime and recommends there should be services designed specifically for young people who have been victims of crime.
148. The UU RPP states that experiencing the criminal justice process of investigation and court proceedings can be stressful and confusing especially for children and young people who lack the support of parents and to vulnerable adults. The UU RPP recommends that the Appropriate Adult Scheme should extend to victims and witnesses who are children and young people and who are vulnerable adults and that there should be services designed specifically for young people who have been victims of crime.

***Victims with Communication Needs***

149. The Royal College of Speech and Language Therapy (RCSLT) believes that any person with a communication difficulty or disability has a right to expect and receive specialist consideration during evidence gathering and in court proceedings to ensure a fair judicial process with the highest quality of submissible evidence. It is RCSLT's assertion that current practice in the judicial process is failing victims and witnesses of crime with speech language and communication difficulties.
150. In its written submission the RCSLT highlighted issues around identification and assessment of individuals with communication needs, sharing of information between justice agencies, the limitations in relation to the current definition of vulnerable witnesses and information provided in guidance. It made a number of suggestions to improve the current system including: the use of registered intermediaries (and other special measures) to support all vulnerable people throughout the criminal justice system; mandatory training for all justice agency staff and the judiciary in the identification and support of individuals with communication difficulties; the implementation of a standardised assessment process including a screening tool sensitive to identifying communication difficulties; and that definitions of vulnerable witnesses should make it explicit that a physical disorder may include communication difficulties which may not be attributable to a mental, intellectual or physical disability.
151. In its written submission Autism NI states that safeguards need to be in place to ensure and measure the understanding of an individual with ASD in order to avoid limiting that person's rights. Autism NI highlighted findings from the report '*Locked Up and Locked Out: Communication is the key*' which recommends the provision of intermediaries within the Criminal Justice System and that reasonable adjustments are made for people with communication support needs. It is also vital that an early intervention/integrated approach to develop and commission a comprehensive speech and language therapy service throughout the criminal justice pathway is adopted to meet the needs of young people with a communication disability.

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152. Autism NI also highlighted the need for specialist training and recommends that an Autism Awareness training package aimed at frontline police officers is made available to the other criminal justice agencies.

**Victims who do not have English as their first language**

153. The Law Society for Northern Ireland stated that specific regard is required for victims and witnesses who do not have English as their first language. The Society highlights the importance of adequate provision of interpretation services throughout the entire process, from reporting a crime to the provision of information and assistance when an offender is released from custody and indicates that it has previously raised concerns regarding the availability of appropriately qualified interpreters in this jurisdiction who are able to assist victims and witnesses in understanding and participating in the court process.
154. The NI Policing Board also provided the Committee with evidence from its thematic review on 'Victims of Domestic Abuse' published in 2009 that barriers faced by victims when it comes to reporting domestic abuse is compounded where the victim's language is not English and/or he or she is unfamiliar with their local surroundings or community. The review found that unless and until there is an abundant supply of interpreters to meet the needs of victims, minority ethnic victims will not receive the high standard of service they are entitled to expect. NIPB goes on to state that all information on support and referral services must be contained in leaflets translated into the various languages spoken in Northern Ireland.
155. Since the review the PSNI Policy Directive on response to domestic incidents was revised and reissued in December 2010 to incorporate guidance relating to victims with particular needs and the PSNI domestic abuse *infocarte* has been translated into eight minority languages and other literature has also been translated into minority languages.

**Victims of Domestic Abuse and Sexual Violence**

156. Victim Support is of the view that victims of domestic abuse and sexual violence should be afforded better support and information from their initial contact with the system to when this ends. Victim Support believes the introduction of the Independent Sexual Violence Advisors (ISVAs) and the Independent Domestic Violence Advisors (IDVAs), along with further development of its own advocacy role will contribute to this. Part of this end to end support should also be the establishment of Witness Care Units to both assess need and provide information to those attending any criminal trial before, during and after hearings.
157. Women's Aid considers that it is vital that best practice is established in respect of victims and witnesses and that a consistent approach is adopted both in terms of policy and practice across all agencies. For example, the embedding of Women's Aid workers in five Public Protection Units has proven to be very beneficial and represents good practice and as such should be rolled out across Northern Ireland. Women's Aid remains concerned that there continues to be a geographical lottery in respect of these vital services.
158. Women's Aid supports the introduction of Independent Domestic Violence Advisors (IDVAs) and of Independent Sexual Violence Advisors (ISVAs) and sees this as a positive development in the support available to victims of domestic and sexual violence in Northern Ireland. It also commends the use of forensically trained nurses in the Republic of Ireland, who are able to come to a victim's home if necessary as being particularly helpful in cases of sexual violence.
159. The organisation described a recent innovation with the development of criminal justice workers in some areas of Northern Ireland. These Women's Aid workers work alongside public protection police officers to provide support for women and, hopefully, increase the chances of successful prosecutions.
160. Both Women's Aid and Victim Support welcome plans to introduce the Sexual Assault Referral Centre (SARC) and the opportunity this provides to plan from the perspective of the needs of victims. However, Women's Aid is concerned by the potential travel implications and possible
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delays which may be caused by the location of the SARC. It believes that the SARC must include planned community services, in consultation with existing organisations, if victims of sexual violence are to be provided with the information and support they need and that the travel implications and delays which may be caused by the location of the SARC must be monitored closely going forward.

161. NIPB advised in its written evidence of its recommendation arising from the 'Victims of Domestic Abuse' thematic review that PSNI considers the number and deployment of domestic abuse officers with a view to ensuring that a specialist officer is available for every shift. In its 2011 update report the Policing Board's Human Rights and Professional Standards Committee was supportive of a model of practice which provided increased hours of provision (including weekends) supplemented by the availability of an on call domestic abuse officer outside of these hours.
162. NIPB advise that a key development since the publication of its review has been the roll-out of Multi-Agency Risk Assessment Conferences (MARACs) across Northern Ireland. In its update report the work that PSNI has undertaken to ensure MARAC is a success was noted and the NIPB states that it is important that funding is secured for a sufficient number of Independent Domestic Violence Advisors (IDVAs).
163. In its oral evidence to the Committee the PSNI provided an update on the progress of the development of a SARC for Northern Ireland. The PSNI confirmed that funding was secured for SARC, but that delay has been caused by having to re-tender for the building contract. The PSNI are hopeful that the centre will be delivered by early 2013.

#### **Victims of Hate Crime**

164. Both in written and oral evidence to the Committee the NICEM provided information on increasing incidences of hate crime in Northern Ireland, its significant underreporting, and the support and interventions required to assist victims of these types of crimes.
165. NICEM highlights the broad impact and devastating effect of hate crimes as these crimes are committed not merely against the immediate victim or their property but against the entire community or group he or she belongs to and eventually raises the feeling of insecurity against the other community or group.
166. NICEM outlines its concern about the lack of statutory specialised support services for victims of racial and religious hate crime and its view that the services provided do not address the specific needs of this group. NICEM states that a similar support model to that offered by Women's Aid to support victims of domestic violence is one that would be appropriate for victims of hate crime and should be considered.
167. NICEM wants to see sufficient resources being provided by the Department of Justice to address the needs, barriers and confidence building of the victims of hate crime through specialised advocacy, advice and support services.
168. As part of its evidence the NIPB states that the Criminal Justice (No. 2) (Northern Ireland) Order 2004 has not led to any aggravated sentences for hate motivated crimes and questions how this has impacted upon the reporting of hate crime.
169. In its oral evidence the PSNI acknowledged that *'there are vulnerable people and communities that are hard to reach out to'* and indicated that measures are being taken to engage with and support these communities.

#### **Practical Support and Interventions**

170. The Committee also heard evidence from individuals regarding the financial impact of their involvement with the criminal justice system. Families described travel costs, loss of earnings as a result of taking time off work to attend court, accommodation costs for family travelling from abroad, and further incidental ongoing expenses. One victim who spoke to



the Committee incurred expenses as a result of having to move house and put furniture in storage etc.

171. This view was supported in both written and oral evidence from SAMM NI who also described the practical difficulties facing bereaved families - *'if a house is a crime scene, people have housing problems. Most of our members are on benefits, and many never work again, so, financially, these issues have a devastating effect on families'*. In its view positive actions that would acknowledge and address the practicalities families suffer during bereavement should be implemented and international best practice in the provision of liaison officers who act as "gatekeepers" for families should be studied.
172. One individual victim of crime highlighted in a written submission the lack of aftercare/ counselling provision.

### **Provisions at Court**

173. Most of the individuals and families who provided evidence to the Committee commented on their experiences of attending court. Common views were expressed regarding the poor standard of accommodation and the lack of adequate facilities, services and support. The oral and written evidence also described the difficulty victims and witnesses have in understanding court processes and protocols and a recurring theme was the delay experienced in cases progressing through the court system.

### **Court Accommodation and Facilities**

174. As part of the inquiry the Committee was interested in viewing for itself the types of facilities available to victims and witnesses in Northern Ireland's courts and undertook visits to Lisburn, Londonderry and Laganside Courthouses. The Committee was struck by the impact of the physical environment on victims and witnesses, the limitations of the facilities, and the stark contrast in the availability of facilities and services to victims and witnesses between courthouse venues.
175. Whilst appreciating the constraints in adapting properties that are of considerable age, the Committee was surprised to find that the facilities available to victims and witnesses in the more recently built Laganside Courthouse building (opened in 2002) were not to the standard that would have been expected in a modern building. Committee members viewed the rooms available for victims and witnesses when attending Laganside, and discussed with court staff issues around access to the rooms, the quality of the rooms, the lack of privacy and the limited services available. Members also noted and were concerned about an apparent lack of structured daily management of the facilities available and the dependence on the availability of volunteers from Victim Support to open all the rooms.
176. The quality of the facilities provided for victims in Laganside was illustrated by the bereaved family of a victim of dangerous driving. In their own words - *'There is a 'victims' room in Laganside, and while the idea is good, the room itself, its facilities and lack of privacy are poor and an insult to those expected to use it; none of us wished to return after our first visit. Having visited other offices within the court system used by its employees, I felt even more insulted when I reflected on the fabric of this room in comparison'*.
177. The family also highlighted the limitations of the actual courtroom layout. *'The layout of the court rooms we found ourselves in were not conducive to any victims of a crime feeling involved in the proceedings. I had already been forewarned that until sentencing, the focus would be on the alleged perpetrator, but I did not expect us to be so much on the periphery of everything, literally and metaphorically. We were seated at the back of the courtroom with a restricted view and an inadequate sound system. The judge presided over the court room from on high, and was the only person facing the room apart from his clerk; the barristers had their backs to the room, the defendant also had his back to the room so he never had to face those he had damaged. The press, sitting to the side of the court, actually had the best view.'*

178. Another family described in oral evidence to the committee the lack of privacy afforded to victims' families. *'People were being briefed in the corridor; everybody was talking about things there. There was a lack of resources. There was a lack of space to get away and to escape when we were dealing with very emotional stuff.'* The same family described the lack of separation between the defendant and the victim's family as very difficult. *'All the time we were there, all through the court process, the defendant was sitting among us, right up until the trial. She sat beside us in the court, and outside the court, she walked into Laganside staring us down . . .'*
179. In its 2011 Report on Victims and Witnesses<sup>11</sup> CJINI inspectors found that *'the standard of facilities can fluctuate depending on the age, design and structure of the court buildings, and also the volume and type of business being conducted at each venue at any given time'*. The CJI Inspectors were content that in general *'the court buildings they visited offered a reasonable good standard of accommodation and were clean'*. In terms of the service provided by court staff to victims and witnesses CJI Inspectors found *'there was a clear sense of determination on the part of staff to adapt to any reasonable needs brought to their attention in sufficient time.'* However the report does highlight that without any structured way of identifying or filtering witnesses in need of additional support or assistance, there will be those who fall through the gaps.

### **Processes and Protocols**

180. In oral evidence SAMM NI gave examples of the experiences of bereaved families when attending court. *'Most of the attitudes that we come up against concern how traumatically bereaved families are told to behave in the court process. You cannot cry because you might distract the jury. You cannot go out if you are upset or do not want to hear it. It is all about families being told what not to do rather than being told what is appropriate for them to do.'*
181. An individual stated in oral evidence *'that the business and interests of the court centre on the perpetrator and the needs of the court, not the victim, they are a by-product.'*
182. The NSPCC also provided examples of the attitude displayed by courts in relation to children. *'A lot of the time people say 'Children lie.' That has been said to me by a judge. What chance does a child have if the feeling is that children lie? The process that children, and all victims, go through to get to court is quite significant. They have to tell the story several times before they get there. They probably have to tell it around six times, yet people still go into court believing that children tell lies.'*
183. The NSPCC acknowledged that the introduction of recent legislative and policy initiatives *'has brought about huge improvements for child victims and witnesses who are now able to access support through the Young Witness Service and avail of special measures which protect them from giving evidence in open court.'* However it went on to highlight findings from the Department of Justice 2011 funded research *'The Experiences of Young Witnesses in Criminal Proceedings in Northern Ireland'* which indicated that delays between reporting and trial were commonplace; that young witnesses reported a lack of pre-trial support; that young witnesses were worried about seeing the defendant and/their family at court; that questioning in court was problematic for many young people; and that many parents commented on lack of post-trial follow-up and available support services.
184. The importance of the wording used by the judge during sentencing was raised by two individuals. In one case the judge when making reference to a victim impact statement mistakenly made reference to the victim's mother as her sister which the family found upsetting and led them to question just how closely the Judge had followed the details of their case. Another individual felt that the wording used by the judge in the sentencing of her brother's killer enabled a local paper to infer domestic abuse was involved in the case even though no such evidence was presented.

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11 <http://www.cjini.org/CJINI/files/c3/c3a0fb11-e230-4d73-97e9-002c200e277a.pdf>

185. In oral evidence Women's Aid highlighted a requirement for attitudinal change within the court in respect of how victims and witnesses are treated and called for training for *'solicitors right through to judges'*. In its written submission Women's Aid highlighted the work being carried out by the Specialist Domestic Violence Court in Glasgow as a model of best practice which could be adapted and recommended the development of specialist domestic violence courts in Northern Ireland
186. The PSNI acknowledges witness attendance at court, including police witnesses, is an issue within the criminal justice. The PSNI currently provides access to its service duty roster application (Options) to PPS within the greater Belfast area. Access allows accurate and 'live' information of officer court availability thereby reducing the potential for a hearing being ineffective due to the non-appearance of the police witness. Access by PPS staff to 'Options' is progressing across all PPS regions.
187. In its submission the Probation Board for Northern Ireland agrees that the court process itself is difficult to understand and needs to be more responsive to the needs of victims and witnesses.
188. The submission from the Office of the Lord Chief Justice states that *'the Lord Chief Justice, as President of the Courts and head of the Judiciary in Northern Ireland, recognises that witnesses are absolutely vital to the running of the courts. If witnesses are not willing to come to court to give evidence then the courts would not be able to function. It is important that they have confidence in the process.'* The submission goes on to state that *'the judiciary are committed to working with others in the justice system to ensure that when a victim or a witness comes to court to give evidence, their needs are considered and met. This is particularly important when dealing with young or vulnerable witnesses'*.

#### **Delay in the Criminal Justice System**

189. The Committee heard from individuals, advocacy organisations and the criminal justice agencies themselves that undue delay in the processing of cases through the criminal justice system has an adverse impact on victims and witnesses of crime. Advocacy groups and individuals described experiences of delay throughout the system from the point of reporting the crime to the conclusion as one of the key issues that needs to be addressed. The delay experienced in the court process itself was also specifically highlighted by families and individuals.
190. To illustrate the length of the process in Northern Ireland, one family highlighted how the case in relation to the murder of their mother took 2 years and 10 months to complete, whilst the high profile murder case of Joanna Yeates in England took just 10 months. *'At the start of the process I thought that it would last for a couple of months. Then it was six months, a year, and then two years. It is now nearly three years, and I am still bogged down in this limbo where I cannot move on. Maybe we can start to move on now because we have had the trial and a satisfactory outcome.'*
191. Describing their frustration with their experience of the ongoing delay they said - *'We would be in court on the day that the trial was due to start, and they would come out to tell us that the case had been delayed and that we should come back next week. When we came back the next week, they would tell us that the trial had been postponed indefinitely and that no date had been set. You would go back to court a few weeks later, when the case was next mentioned, and you would be given another date, but it would be right up to the wire with that next date and the date after that. Every time we were given a trial date, we had to get the family to come over, rent accommodation, buy the flights and organise time off work, only to be told the day it was due to start, or the Friday before it was due to start, that it was not happening again. That happened four times before the trial actually kicked off.'*
192. In its written evidence the Law Society highlighted the importance of ensuring that criminal prosecutions run efficiently, without undue delay and stated its concern that delays which could be avoided are too common. The Society is keen to see delay tackled and advocates

- strongly for increased efficiency within the criminal justice system. The Society states that while there may be a perception that delay is in the financial interests of a defence solicitor, the introduction of a standard fee regime for all criminal cases means quite the opposite is true.
193. Victim Support stated that delay within the system is a key issue impacting on the experiences of victims and witnesses. Long delays with an investigation or case can often have an impact on the individual's recovery, especially if they require further therapeutic intervention. Very often individuals become increasingly frustrated and despondent when more and more time passes with no contact or information from the relevant criminal justice agency. A lack of information can often make victims feel that their case is not being taken seriously when often the opposite is the reality.
194. From Victim Support's experience delay between the incident and the trial is a major priority that needs to be addressed and it welcomed the efforts being made to tackle this. Victim Support also stated that the issue of delay should be addressed from the moment the individual reports the crime right through to disposal.
195. Women's Aid views the delay between the incident and the trial as a major priority and also welcomed the efforts being made to address the problems. Women's Aid stated that the length of time from crime to trial is longer on average in Northern Ireland than in England and Wales and highlighted that delay is a factor in attrition rates, particularly in cases of domestic violence, where if the police only send files to the PPS three or four months after the event, the opportunity is lost in getting the victim to proceed.
196. In written and oral evidence the NSPCC also highlighted that delay is a key issue strongly associated with victim withdrawal and attrition rates. The NSPCC recommended that further investigation into cases in which the victim withdraws or denies/retracts their allegation should take place in order to better understand how 'avoidable attrition' might be minimised and victims better supported.
197. The NSPCC stated that for both child and adult victims, delay impacts on their ability to access therapeutic support. They can access such support while they are waiting for a case to come to trial, but they cannot talk directly about their own victim experiences. The NSPCC knows from their own therapeutic staff that there can be delays of up to three or four years, sometimes five or six years, in the most protracted cases. That is a long time in which young people are unable to talk directly about what has happened to them, and that has a hugely negative impact on them.
198. The NSPCC highlighted that there are issues that are particular to children about the length of time that it takes from when they report a crime to when they go to court. They may have changed and aged significantly in that period, and that has huge implications. The child who reports a crime at age nine is a very different witness when they take the stand aged 12 or 13, and, because they are a little older, jurors are influenced to treat them slightly differently and to look on them with a more sceptical eye.
199. The PSNI indicated that it has invested significant efforts in reducing delay for victims. This has included a programme of internal reform aimed at focusing the right people to the right place at the right time doing the right thing. The PSNI stated that in partnership with PPS it has implemented a number of initiatives designed to remove low level crimes from the formal criminal justice system including the introduction of the Police Discretion Scheme (allowing officers to use discretion to resolve specified low level crime) and Telephone Diversion (allowing officers to telephone prosecutors for diversionary decisions).
200. The PSNI also provided other examples of how it is addressing avoidable delay including working in partnership with the PPS to deliver a more streamlined file and process for charge cases which can be disposed within the Magistrates Court and working to reduce avoidable delay in summons cases which take twice as long to be disposed in court as charge cases.

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201. In February 2012 the Committee was briefed by the CJI on its Progress Report on Avoidable Delay which indicated little and in some areas backward progression. Departmental officials also outlined the response to the report findings including the Minister's statement to the Assembly on 6 February, in which he informed Members of his plans to introduce statutory time limits in the youth courts within the current Assembly mandate.
202. In discussing the possibility of the introduction of statutory time limits, which are targets set by law which give the criminal justice system a specified time to progress a criminal case, with advocacy groups at the December 2011 oral evidence event some groups expressed a level of nervousness about this and cautioned against any negative impact upon victims. During the oral evidence event in January 2012 with the criminal justice organisations the PSNI however confirmed its view that statutory time limits are now necessary, but questioned whether the 2003 Order is the most appropriate tool for enacting these.
203. With regard to the progression of cases the CJINI's Progress Report on Avoidable Delay looks at the case management work being undertaken to develop better ways to improve the conduct of criminal cases through the court process.
204. When briefing the Committee on the 2011 Victim and Witness report a CJI Inspector set out his view regarding the need for placing case management *'on a statutory footing with timescales, sanctions and incentives designed to deliver the most efficient and effective case progression.'* The Inspector stated *'As I see it, statutory case management is about the practical arrangements in a court. It means that the judge has, on a statutory basis, the backing of statute to tell the defence and the prosecution the issues at stake and what witnesses are required to ensure that a case is progressed without unnecessary delay. The time limits are more about the end-to-end process. If those two things are mutually supportive and go hand in hand, that can only be to the ultimate benefit of victims and witnesses and the entire criminal justice process in respect of delay.'*
205. In its submission the PPS identifies issues around the listing of cases can be a cause of dissatisfaction, such as a perceived delay in listing of cases, repeat adjournments, and being given short notice of adjournments.
206. In oral evidence to the Committee the NSPCC highlighted that at court children often have to wait several days before their evidence is heard, which increases their stress and anxiety. The NSPCC wishes to see greater consideration being given to children spending as little time in a courtroom setting as possible and that one way this could be done would be through the development of special childrens' hearings days or listing children to give evidence at a set time on a set day with the rest of the trial working around this.
207. In its written submission NSPCC stated that the recommendations of the Young Witness Study should be taken forward, *'in particular: giving consideration to the support needs of victims and families whose cases are heard at the lower courts; greater prioritisation of young witness cases by courts; and, in line with recent developments in England and Wales, giving consideration to the development of guidance and training initiatives for judicial and legal professionals in Northern Ireland in relation to the questioning and cross-examination of young witnesses and victims.'*
208. The Lord Chief Justice's Office highlighted that concern for victims and witnesses was one of the major drivers in relation to a new Practice Direction which changes the way in which cases are listed for trial in the Crown Court. The Practice Direction came into effect in September 2011 in Belfast and Antrim on a pilot basis with the aim of rolling out to other divisions in 2012. The Practice Directive means that witnesses are contacted about trial dates only if the defendant pleads not guilty; it also aims to reduce those non-essential witnesses having to come to court to give evidence by encouraging the defence and PPS to agree which witnesses are essential.
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209. In its submission the PSNI welcomed the recent Practice Direction of the Lord Chief Justice in relation to case management and the need to ensure only necessary victims and witnesses are called to present evidence.
210. The PSNI acknowledges witness attendance at court, including police witnesses, is an issue within the criminal justice. The PSNI currently provides access to its service duty roster application (Options) to PPS within the greater Belfast area. Access allows accurate and 'live' information of officer court availability thereby reducing the potential for a hearing being ineffective due to the non-appearance of the police witness. Access by PPS staff to 'Options' is progressing across all PPS regions.
211. In a visit by Committee Members to Laganside Courts in Belfast it was confirmed that it is common for witnesses to be asked to arrive at court early in the morning which can lead to lengthy waiting times. This was in contrast to provisions described to Committee Members during their visit to West Yorkshire Witness Care Unit, where a Bradford Court official confirmed that they have a target that witnesses should not have to wait for more than 2 hours before giving evidence in criminal proceedings, the achievement of which is measured twice a year. This is in-line with the commitment set out in the Criminal Justice System Code of Practice for Victims of Crime<sup>12</sup>. The Police representative from the Witness Care Unit also confirmed that police officers needed for court were able to complete desk duties on the day and were only called to court when needed.
212. In its 2011 Report on Victims and Witnesses<sup>13</sup> CJI Inspectors also considered and provided commentary on the issue of delay in waiting times for victim and witness court appearances. Inspectors found that apart from a NICTS pilot scheme, there is currently no formal mechanism to plan or schedule victim and witness appearances. Inspectors found that in general *'there is also no monitoring of witness waiting times, and the NICTS expects whoever asked the witnesses to attend court to look after them in conjunction with voluntary bodies such as the VSNI/NSPCC who run the witness schemes'*. The report stated that *'Inspectors consider that the resources allocated by the criminal justice agencies to assist victims and witnesses at court and to provide an enhanced service needs to be considered further.'*
213. Specific comments were also made regarding the committals process with one family highlighting the delay caused in the Magistrates' Court by the conduct of a Preliminary investigation (PI) in relation to their case.
214. In its evidence, Victim Support advocated an end to oral evidence in committal hearings as in its view this procedure only serves to cause further stress and trauma to victims.
215. The judiciary are also supportive of reforming the committals process to remove the right to call witnesses at committal proceedings (known as a PI or a mixed committal) as they do not see any operational advantage for the courts, or witnesses, in retaining PI's or mixed committals for any type of criminal proceedings.
216. The Department of Justice subsequently confirmed in oral evidence that a consultation is being undertaken on proposal to change committal hearings by removing the requirement for witnesses to attend preliminary inquiry proceedings and moving to a paper-based system.

### **Participation**

217. The Committee heard repeatedly that victims felt disenfranchised and disengaged from the criminal justice process. Victims and particularly their families felt that they had no role and often became bystanders, observing the criminal justice process from the sidelines.

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12 [http://www.cps.gov.uk/victims\\_witnesses/victims\\_code.pdf](http://www.cps.gov.uk/victims_witnesses/victims_code.pdf) - 'The court staff must ensure, as far as is reasonably within their control, that victims who are witnesses do not have to wait more than two hours before giving evidence in criminal proceedings in respect of relevant criminal conduct in the Crown Court or Magistrates' Court.'

13 <http://www.cjini.org/CJINI/files/c3/c3a0fb11-e230-4d73-97e9-002c200e277a.pdf>

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218. As part of its consideration of victim's participation in the criminal justice process, the Committee considered evidence on Victim Impact Statements and Reports, Compensation, Youth Conferencing, and Restorative Justice.

***Victim Impact Statements and Victim Impact Reports***

219. The Committee heard views from a number of victim advocacy organisations and individual victims of crime on the provision of victim impact statements and victim impact reports, both of which offer victims an opportunity to have their voices heard. The Committee also commissioned research on the provision of these in Northern Ireland and comparative information on provision in other jurisdictions.
220. In Northern Ireland there is provision for victims to make victim impact statements, but this is not set out on a statutory basis, nor is there any formal process or guidance in place. According to the Department of Justice's '*Consultation on Provision of Victim Impact Statements and Victim Impact Reports*'<sup>14</sup> statements are personal, written by the victim and/or victim's family and describe the impact that the crime has had on the victim, for example emotionally, medically, physically, socially or financially. A victim impact statement should not include comments about the offender or what sentence the victim thinks the offender should receive. A victim impact statement is optional and is prepared with the consent of the victim before their case is heard in court. The statement is taken into consideration by the sentencing judge alongside other information including the legislative authority or sentencing guidelines, the maximum sentence which can be given, whether the defendant pleaded guilty or not, the level of sentences in similar cases in the past and the powers of the court.
221. Victim impact reports differ from statements as they are prepared following a request by the court for a professional assessment and they are obtained by the Public Prosecution Service. The reports, prepared by professionals, provide specialist opinion on the traumatic impact of the crime on the victim and are used to assist the court in reaching a decision as to sentence.
222. Both Victim Impact Statements and Victim Impact Reports are not used until after a conviction has taken place.
223. The Department's ongoing consultation is considering issues such as when a victim impact statement should be made, whether statements and reports should be shared with organisations who can assist victims, whether the victim or a nominated representative should be permitted to read the victim impact statement in court and whether victim impact statements should be provided for in legislation.
224. The Committee heard in oral and written evidence that there was often a lack of understanding amongst victims regarding the purpose and limitations of their victim impact statement. In its written submission to the inquiry the Law Society stated its concern that there may be a lack of understanding around the relevance of a victim impact statement and in particular that the ability to make a statement may lead to an expectation of a harsher sentence for the offender. The Society highlighted the importance of providing victims who wish to make an impact statement with appropriate guidance.
225. This view was supported by VSNI who felt that the purpose of any initiative introduced as a means of victim participation, such as victim impact statements and reports, needed to be clearly explained and the expectation of the impact of such participation needed to be strictly managed and understood.
226. The Committee heard evidence regarding inconsistency in the provision and application of victim impact statements as an option for victims. In oral evidence Victim Support stated that there is confusion within the system as to how victim impact statements are initiated and that there was currently no format for how they should be constructed. Women's Aid stated

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14 <http://www.dojni.gov.uk/index/public-consultations/archive-consultations/consultation-on-the-provision-of-victim-impact-statements-and-victim-impact-reports.htm>

in its written submission that it is concerned that reports suggest victim impact statements are seldom taken in cases involving domestic violence and advocated within its submission that these statements should be taken as a matter of routine. In evidence from an individual at an informal meeting, it was indicated that whilst that individual expected the opportunity to complete a victim impact statement, the option was never offered.

227. The NI Assembly Research paper commissioned by the Committee on victim impact statements highlighted that the level of victims making impact statements in Northern Ireland is low, stating that since June 2006 there have been 435 cases where victim impact statements have been used in court proceedings and that it appears that the use of victim impact statements is in practice restricted to cases involving sexual offences or those of a violent nature.
228. The Committee did hear positive feedback regarding the benefit of victim impact statements where these have been offered. Women's Aid cited in oral evidence the positive benefits of the statement process for victims - *'It is empowering for the victim. The victim sees it as her way of getting her voice out there . . . it helps to let the rest of the world know about the impact of crime on victims'*. The family of a murder victim, in their evidence stated that whilst a difficult process, it was worthwhile - *'It is the only time that you get to tell your story.'* They did however point out that it was a very emotional process having to go back over the details of the crime and its impact upon their family - *'You get caught up in the legal process and you focus on the process and not the actual event. You sort of tuck that away, and through the victim impact statement, you have to relive the horror.'*
229. The same family also advised the Committee of their surprise that their statements were provided to the defendant's legal team to allow them to censor anything that might be considered prejudicial to the defendant. Given the family's expectation that the victim impact statement was their opportunity to have their say, they found it strange that this was the case.
230. In oral evidence Victim Support stated that statements should not be edited, but that there should be clear guidance on what the statement should cover and its format. Any issues about inappropriate disclosure of information or any statement that the victim would want to make that may be inappropriate in a court case should be dealt with in the guidance and the format of the impact statement itself. Victim Support also welcomed the steps taken to date to scope the usage of Victim Impact Statements/Reports as one means of victim participation, however expectations of this participation needs to be managed.
231. In its written submission the PPS acknowledges that *'there is at present in our criminal justice system a lack of guidance or process around the use of Victim Impact Statements.'* PPS stated that the issue is being taken forward by the Victim and Witness Steering Group and it is closely involved in the project to develop the use of Victim Impact Statement and Reports for sentencing purposes in court.
232. The Committee noted the research commissioned on the provision of victim impact statements in other jurisdictions highlighted that some jurisdictions restrict the types of offences in which victims can make victim impact statements, however there have been developments in England and Wales to widen the range of offences and this issue is also being considered in the Republic of Ireland. There is also provision within some jurisdictions to allow victims or a representative to read their statements aloud in court, whilst others including Northern Ireland only allow victims to make their representations in writing. The research also pointed to examples of other jurisdictions allowing victims to make statements in other types of hearings such as bail, plea bargain hearings or early release hearings and indicated that most jurisdictions covered in the research only allowed the victim to comment on the impact of crime on them and not on the sentence.
233. The Committee also noted that the CJINI 2011 report on *'The care and treatment of victims and witnesses in the criminal justice system in Northern Ireland'* found that the use of the Victim Impact Statement was not well understood in Northern Ireland and that the absence of

guidance meant that various professionals and the public took differing views as to how and when they could be used. Despite the limitations and issues surrounding the use of Victim Impact Statements, CJINI indicated that a codified, regularised and well understood scheme in Northern Ireland could be beneficial in giving victims a voice and enhancing their role in the criminal justice process. CJINI recommended that the Criminal Justice Board should introduce guidance on a Victim Impact Scheme in Northern Ireland, considering lessons learned from the implementation of the Victim Personal Statement in England and Wales.

234. VSNI suggested that a link could be made between the information obtained from victim impact reports and the provision of support services to victims. In oral evidence VSNI urged that the reports and professional assessment of the impact of crime are not just used in the court system but are used to pick up needs that might be met outside the criminal justice system where there is need for further therapeutic intervention or support.
235. In its written and oral evidence to the Committee the University of Ulster Restorative Practices Programme asserted the right of victims to submit victim impact statements and suggested these should include a statement regarding what victims need to restore their sense of safety and well-being. The UURPP did not advocate that statements influence the punishment ordered by the court but felt they could include a request to the offender that he or she should complete some act of direct or indirect reparation whatever sentence is determined.
236. In its submission to the inquiry, PBNI states its view that victims should have the opportunity to have their voices heard at the key stages of the criminal justice process - from prosecution, at sentencing, when release from custody is being considered and when an offender is subject to licence conditions or supervision in the community. PBNI suggests that practical ways of achieving this participation may include provision of victim impact statements or victim reports at the prosecution and sentencing stages, opportunities to contribute to the agreement of licence conditions prior to release from custody, or contributing to multi-agency public protection arrangements for certain offenders.

### ***Compensating Victims***

237. The Compensation Agency, an executive agency within the Department of Justice is responsible for the administration of three statutory compensation schemes in Northern Ireland. These are for criminal injuries, criminal damage and, on behalf of the NIO, actions taken under the Justice and Security (Northern Ireland) Act 2007.
238. The evidence received by the Committee highlighted a number of issues relating to the compensation of victims of crime. These included delay in the length of time it takes to process compensation claims and appeals, the inability of claimants to recover legal costs associated with bringing forward compensation claims and excessive legal fees in some cases, the limitations of the existing compensation schemes, the strict application of the eligibility criteria and in the experience of some, the detrimental impact of engagement with the compensation process.
239. Victim Support NI stated in its written submission that the compensation process can provide a means by which an individual affected by crime can have their experience recognised and that very often the compensation process is the only form of participation for the individual affected by crime in the criminal justice system. In oral evidence the organisation highlighted that one of the positive aspects of the compensation schemes is that the burden of proof required is the civil burden of proof which is lower than the criminal burden of proof. For that reason many victims gain closure and a sense of justice through the compensation process that they may not have received through the court process.
240. However VSNI also indicated a number of areas of concern regarding the schemes. These included delay in the processing of compensation claims which can take up to eighteen months for the first decision. During this time the individual affected has to cope with the additional financial impact of the crime which can add to an already stressful time; the fact

that Northern Ireland does not include the tariff for nervous shock, which the Criminal Injuries Compensation Authority (CICA) scheme in England and Wales does; the two-year time limit for compensation potentially sits at odds with the current timescales for criminal cases in the overall system; and there is currently no limit to the percentage of an award that a solicitor can request for representing a victim during the compensation process.

241. Victim Support also suggested there may be opportunity to streamline the system and if there was a different attitude taken at the initial application stage there may be savings to be made throughout the process. This observation is based on its experience of achieving a 30% success rate in the initial applications that it makes on behalf of victims of crime, a 30% achievement at the review (the written challenge stage), and a 50% success at appeal.
242. In its written submission SAMM NI raised its concerns regarding the compensation process and the legislation around making a claim for the Fatal Award and/or psychological trauma for siblings of murder victims. SAMM NI stated that in its experience there is little or no understanding of the psychological impact that a murder has on surviving parents, children or siblings nor the detrimental impact of engagement with the compensation process. SAMM NI is concerned with the recent changes to the criteria and recommended that the compensation process and the legislation on the criteria for families bereaved through murder and manslaughter is reviewed.
243. In oral evidence SAMM NI also highlighted that written communications from the various criminal justice agencies and, in particular those from the Criminal Injuries Compensation Agency are very damaging with respect to some of the explanations they contain, stating that *'They are bland, almost one-size-fits-all letters, and are completely damaging to families'*.
244. In an informal meeting one family highlighted concerns that families are ineligible for compensation in cases that involve children aged over 18. They stated that there was something wrong with a system that puts no value on a life just because the person has turned 18.
245. The Law Society in its written evidence indicated concern that the strict application of the eligibility criteria may be denying injured parties compensation in deserving cases. In particular, the requirement to inform the police of the incident giving rise to their injuries 'without delay' is believed by the Law Society to have resulted in a number of deserving applicants being denied compensation.
246. The Law Society also highlighted that since 2002 those seeking compensation for criminal injuries through the Criminal Injuries Compensation Scheme 2009 have been unable to recover the costs of legal advice and representation provided to assist them in bringing their claim for compensation. The Society questions whether the current arrangements are meeting the goal of ensuring that members of the public are able to access compensation for their injuries.
247. During the oral evidence event with the criminal justice agencies the Committee questioned the Compensation Agency about victims being charged excessive amounts for solicitors' services and whether there was opportunity to produce guidelines on this. The Agency acknowledged that some legal fees are very high, and confirmed the current tariff scheme does not pay for legal costs, and that this is made clear from the outset in all its communications with victims. The official did clarify that legal expenses are reimbursed in minor claims cases and in such circumstances the Compensation Agency try to use the 1988 scale rates as a guide.
248. The PSNI stated in its written submission that it would continue to work in partnership with the Compensation Agency to ensure applications for compensation are processed as expeditiously as possible.
249. In early 2012 the Department of Justice indicated that it intended to undertake a review of how the Compensation Agency achieves its objectives and in March the Committee

considered the Department's draft terms of reference for this review which is focused on how the Compensation Agency delivers its services.

### **Restorative Practices**

250. The Committee heard views from those who submitted evidence on restorative justice and the appropriateness of its application in the judicial system in Northern Ireland. Restorative justice practices in the criminal justice system as stated by the Restorative Justice Council *'give victims the chance to tell offenders the real impact of their crime, to get answers to their questions, and an apology. Restorative justice holds offenders to account for what they have done, helps them understand the real impact of what they've done, to take responsibility and make amends'*<sup>15</sup>.
251. In its submission UU RPP stated that even though restorative justice should balance the needs and interests of victims and offenders, the way that the criminal justice system has developed means that the process is inevitably offender focused. It is UU RPP's submission *'that victims should have their voice heard and be enabled to participate actively within the criminal justice process.'* UU RPP recommended that victims should be enabled to request a facilitated meeting with the person who has harmed them at any time irrespective of how the system has dealt with the offender. This should be conducted on the basis of the offender's consent and through a planned, safe and respectful process facilitated by trained practitioners.
252. In its written submission Victim Support stated its belief that the criminal justice system, as a priority, should continue to develop restorative practice which protects the interests of victims. Appropriately conducted restorative practice can provide answers to common questions that victims have after a crime.
253. In its submission the Probation Board provided details of its experience of restorative practices. PBNI has completed a number of victim / offender pilots throughout Northern Ireland in conjunction with community partners, Alternatives and Community Restorative Justice Ireland (CRJI) and is committed to the use of a range of restorative interventions ranging from indirect mediation to victim /offender restorative meetings. PBNI stated in its submission that it needs to build greater resource capacity to deliver restorative approaches across the whole of Northern Ireland and begin to develop approaches in adult conferencing.
254. Additionally, those who register via the PBNI Victim Information Scheme have an opportunity if they so wish to influence the type of work that an offender completes. Victims are able to nominate particular schemes that may benefit from community service through PBNI's website.
255. The CAJ confirmed in its written submission its support of the introduction of an offender levy and creation of victims of crime fund in principle. CAJ agreed that offenders should pay compensation for victims and that government should endeavour to establish, strengthen and expand available national funds. CAJ highlighted that although the 2011 Act introduced an offender levy for sentences imposed by a court and also for certain fixed penalty offences, these provisions had yet to be commenced.
256. The Committee noted the research it commissioned identified restorative practices as an example of good practice initiatives available in a range of jurisdictions and highlighted that in the Northern Ireland model of diversionary and court ordered youth conferences the level of victim participation is high compared to other restorative initiatives.
257. The Committee also noted that whilst restorative justice initiatives have been welcomed and acknowledged as a process that can be beneficial for victims, restorative justice models are not primarily designed as a victim service.

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15 [http://www.restorativejustice.org.uk/what\\_is\\_restorative\\_justice/](http://www.restorativejustice.org.uk/what_is_restorative_justice/)

### **Youth Conferencing**

258. The Justice (Northern Ireland) Act 2002 provides measures for dealing with children who offend, the most significant being youth conferencing which is based upon inclusive restorative justice principles. This operates both as an alternative to prosecution or as a court-ordered process and allows children to take responsibility for their actions, gives victims an opportunity to say how they have been affected and results in an agreed plan to redress the harm done.<sup>16</sup>
259. In its written submission the University of Ulster Restorative Practices Programme stated that restorative conferences in relation to young offenders and their victims have been an outstanding success in providing victims with a satisfying experience of justice Northern Ireland. This success has been due to a robust practice model, the recruitment of high calibre practitioners, accredited training, and rigorous performance management. UURPP recommended in its submission that restorative conferences should be extended to adult offenders and coordinated by specialist facilitators trained to same standard as the youth conference coordinators.
260. The Committee also considered written and oral evidence from the parent of a victim of crime regarding his experience of participating in a Court Ordered Youth Conference. Whilst acknowledging the positive benefit of being able to ask questions of the offenders involved in the case, the individual raised a number of issues regarding the operation of the conference. He was concerned that Magistrates can, at their discretion, reject or amend any plan provided by the Youth Justice Agency after the conference, the effect of which, in this individual's opinion, reduces any positive aspect of youth conferencing.
261. He also highlighted that information he requested from the Youth Justice Agency as part of his preparation for taking part in the conference was incorrect and the report produced after the conference was not pro-actively shared with him in advance of it being submitted to the Court. In this particular case, having insisted on seeing the report he identified inaccuracies and statements that misrepresented him and these were later acknowledged and changed. The individual was also unhappy to learn (at the conclusion of his participation in the process) that representatives of victims are unable to complete a satisfaction survey on the youth conferencing service even though representatives can take part in the conference on behalf of the victim.

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16 [http://www.youthjusticeagencyni.gov.uk/youth\\_justice\\_system/](http://www.youthjusticeagencyni.gov.uk/youth_justice_system/)



# Key Findings and Recommendations

## Current Provision of Services to Victims and Witnesses

262. During this inquiry the Committee has heard from and spoken directly to a wide range of advocacy and victims' representative groups and individuals and families who themselves have had first-hand experience of the criminal justice system. The Committee has also discussed the emerging issues with the Criminal Justice Agencies including the Department of Justice, the PSNI, the PPS, the NICTS and the Probation Board.
263. The written and oral evidence received has highlighted that a range of initiatives and work has been taken forward in recent years aimed at improving the services to and the experience of victims and witnesses who encounter the criminal justice system. These include the introduction of a Code of Practice for Victims of Crime, revised guidance on Achieving Best Evidence in Criminal Proceedings and the inclusion of additional provisions for the use of special measures for vulnerable and intimidated witnesses in the Justice Act (Northern Ireland) 2011. The Committee also heard examples of excellent service, often beyond what was required of them, being delivered by individuals within the system.
264. The Committee also recognises the crucial contribution made by Victim Support NI, the NSPCC Young Witness Service and other voluntary sector organisations in steering victims and witnesses through the system and providing support and assistance when it is most needed. The Committee commends the collaborative approach these organisations adopt with the statutory criminal justice agencies and believes that the system would be a much colder place for victims and witnesses without them.
265. However, despite all of this, victims and witnesses, and in particular bereaved families, still face significant difficulties with the criminal justice system and the criminal justice agencies and their experience of the process is often frustrating, demoralising and on occasions devastating. While the evidence received is only a snapshot of particular cases comments such as:
- "People are misinformed, ill-informed or not informed at all"*
- "The trauma suffered by families can often be exacerbated by the criminal justice system"*
- "The main message I would like to get across is for more understanding of what victims are going through and the impact of actions and words from the authorities... what I think needs changed is that victims need to be seen as humans with real feelings and emotions".*
- are a reflection of how the criminal justice agencies have failed to deliver properly for victims and witnesses of crime.
266. The evidence from the victim support organisations has also illustrated the difficulties faced by victims and witnesses as has the findings of recent Criminal Justice Inspection reports.
267. Interestingly, many of the people the Committee spoke to did not wish to take away the rights of a defendant, they simply wanted the rights of victims and witnesses to be acknowledged too and for a better balance to be brought to the criminal justice system.
268. There are a number of key issues that clearly impact upon victims and witnesses. These include:
- The lack of status victims and witnesses have within the criminal justice process with little or no input or rights despite the case, particularly in relation to serious crime, having a major impact on their lives
  - The lack of dignity and respect shown to victims and witnesses during the process
  - Difficulty in understanding the process

- Difficulties in obtaining information about their case
- Feeling unprepared for what lies ahead
- The lack of support required to give evidence
- The lack of emotional and psychological support services and practical assistance
- The lack of a joined-up approach between criminal justice agencies
- The lack of continuity of service within criminal justice agencies
- Poor facilities in courthouses
- The length of time cases take to reach a conclusion during which victims and victims' families lives are put on hold

269. While these difficulties exist throughout the criminal justice process they are particularly acute in the PPS from the stage of the assessment of a case, through the process of a decision to prosecute and on through until the completion of the court case.

270. The co-operation of victims and witnesses in the criminal justice process is vital to achieving convictions and ensuring that justice is seen to be done. While recognising that the adversarial nature of the justice system does not provide a conducive environment for victims and witnesses it is the Committee's strong belief that much more can and needs to be done to redress the balance and ensure that an effective and appropriate service is provided for them. The Committee is therefore making a number of key recommendations to deliver the radical changes that in our view are required and the development of a new 5-year victim and witness strategy by the Department of Justice will provide the opportunity to take these forward.

#### **The Status and Treatment of Victims and Witnesses**

271. The evidence clearly demonstrates that engaging with the criminal justice system as a victim and/or witness or as a bereaved family is a daunting experience which can entail encounters with a number of criminal justice agencies and voluntary sector organisations from the time the crime is reported, through the police investigation, prosecution decision making process, court process, sentencing and beyond.

272. The Code of Practice for Victims of Crime describes the criminal justice process and how a victim of a crime can expect to be treated by the criminal justice agencies. According to the Code each organisation "*wants to make sure that you receive relevant information and support and they will treat you with dignity, respect and sensitivity*". While the Department of Justice intends to place the requirement to have a Code of Practice in legislation, the provisions will remain on a non-statutory footing unlike the Code of Practice that governs the minimum level of service to be provided to victims in England and Wales.

273. The Committee heard evidence and clear statements from the criminal justice organisations and in particular the Department of Justice, the PSNI and the PPS, regarding the importance of victims and witnesses and the information and services that are being provided to them. However, the rhetoric does not match the actual experience of a wide range of victims and witnesses as illustrated by the evidence received from the advocacy and support groups and individuals themselves.

274. It is the view of the Committee that the Code, while a useful document in outlining what information various criminal justice agencies should provide, has not had the necessary impact on changing the focus and culture of the criminal justice organisations to ensure that the service to and treatment of victims and witnesses becomes an integral and core component of the criminal justice process.

275. The Committee recognises that victims and witnesses have individual needs and some will require much more support and information than others. However, the Committee is of the view that fundamentally all victims and witnesses are entitled to be treated with dignity

and respect by the Criminal Justice system and to be provided with the appropriate level of information in a timely manner.

276. Given the inability of the criminal justice organisations to achieve this to date the Committee does not believe that the introduction of further guidance documents will accomplish the 'step change' required.

277. **The Committee therefore recommends that a Victim and Witness Charter providing statutory entitlements for victims and witnesses in terms of information provision and treatment should be introduced in the next available Justice Bill.**

**The Charter should, as a minimum, cover the following entitlements:**

- **Be treated with dignity and respect**
- **Receive information on the progress of their case and the reasons for any delay at identified key milestones in accordance with the timescales set out in the Code of Practice**
- **Be informed about the outcome of their case in accordance with the timescales set out in the Code of Practice**
- **Be given the reasons for the decision not to prosecute in accordance with the timescales set out in the Code of Practice**
- **Be provided with additional support if they are vulnerable or intimidated**
- **Receive information on the offender's release from custody and arrangements for their supervision in the community in accordance with the timescales set out in the Code of Practice**
- **Complain to an independent body if not satisfied with how an organisation has dealt with their concerns**

(Recommendation 1)

278. **Following on from this the Code of Practice for Victims and Witnesses should be revised to fully reflect these overarching commitments and set out clearly the key milestones at which information will be provided, the timescales for the provision of the information, how it will be provided and who has responsibility for its provision.**

(Recommendation 2)

279. **The Committee also recommends that the same statutory rights should be afforded to bereaved families.**

(Recommendation 3)

280. **The Committee further recommends that an independent complaints mechanism should be introduced to deal with all complaints that have not been satisfactorily dealt with through the internal complaints procedures of each organisation.**

(Recommendation 4)

281. It is the Committee's view that the introduction of a Victim and Witness Charter is necessary to redress the balance in the system and ensure that the criminal justice agencies place appropriate priority on providing the services that victims and witnesses require and should be entitled to receive.

282. There is also a need for all staff within each criminal justice organisation who interact with victims and witnesses to clearly understand the impact that crime and the criminal justice

system can have on them and to develop the skills and abilities to deal with them in an appropriate manner. This is particularly necessary in the PPS which, based upon evidence presented to the Committee, requires fundamental cultural reform.

283. **The Committee recommends that all staff in the criminal justice organisations who interact with victims and witnesses should receive mandatory training on the care and treatment of victims and witnesses.**

(Recommendation 5)

#### **Single Point of Contact – Witness Care Units**

284. The evidence points to overwhelming support for the establishment of Witness Care Units to provide a co-ordinated, efficient and effective 'one-stop shop' service for victims and witnesses.
285. The visit to the Witness Care Unit in Bradford enabled the Committee to view at first hand the service that can be provided by such a Unit and Members were very impressed with the approach adopted by the staff and the resultant improved experience of witnesses.
286. The Committee supports the introduction of Witness Care Units, viewing them as an opportunity to provide a single point of contact for victims and witnesses in relation to their case to include co-ordination of support and services and the provision of timely information which should greatly improve their experience of the criminal justice system. Once established, victims and witnesses can expect a full needs assessment to identify specific support requirements, a dedicated official to guide and support them through the process and co-ordinate services, much improved communication and information provision and continuous review of their needs.
287. The Committee therefore welcomes the commitment of the Minister of Justice to the establishment of Witness Care Units in Northern Ireland following the publication of the Criminal Justice Inspection report on the Care and Treatment of Victims and Witnesses in December 2011. The Committee views the lack of progress in relation to the implementation of the recommendation in the previous 2005 CJ I report that Northern Ireland should be included in the Government Strategy to provide a network of witness and care support units as a lost opportunity to improve the services for victims and witnesses much sooner.
288. The Committee notes that the current intention is to commence a pilot scheme for a Witness Care Unit to deal with Magistrates' Courts, Youth Courts and County Courts in the Belfast region by autumn 2012 with a roll out to the Crown Court Belfast region by March 2013. The Committee is somewhat disappointed by this timescale given that it will be 15 months from the agreement to establish Witness Care Units before the Unit will be available for Crown Court cases, which often involve those victims and witnesses with the greatest needs. The Committee believes this position should be reviewed and will monitor progress very closely.
289. **The Committee recommends that Witness Care Units in Northern Ireland should provide the single point of contact for as much of the process as possible and consideration should be given to how provision can be extended from before the point of a decision being taken to prosecute to beyond the conclusion of the court case to include appeal and post-conviction information and support.**

(Recommendation 6)

290. **The Committee recommends that Witness Care Units covering all the court regions should be established by December 2013.**

(Recommendation 7)

291. In order to achieve the required outcomes from Witness Care Units close partnership working between the PPS and the PSNI will be essential and the Committee expects to see full commitment from both organisations to the delivery of the Units within the timescales outlined.

292. The Committee notes that the PPS is currently the lead organisation in taking forward the establishment of Witness Care Units in Northern Ireland as recommended by the Criminal Justice Inspectors. Given the criticism levelled at the PPS in relation to the services provided to victims and witnesses during this inquiry the Committee is concerned that there may be a risk, of either inertia or delay, in placing the PPS in the lead rather than the PSNI.
293. The Committee does however recognise that for Witness Care Units to be successful and sustainable in the long term will require the involvement of the PPS and agrees that this is best achieved by ensuring there is commitment and responsibility at the highest level within the PPS for the delivery of these Units. The Committee is confident that the PSNI is fully committed to the establishment and effective operation of Witness Care Units whatever governance arrangements are in place.

### **Communication and Information Provision**

294. A major concern that recurred throughout the oral and written evidence was how the criminal justice organisations communicated with victims and witnesses, and the quality and timeliness of the information provided in individual cases.
295. The Committee heard many examples of failure in communications with victims and witnesses left feeling confused, frustrated and ill-informed or not informed at all in relation to the criminal justice process in general and/or their particular case. The manner of some of the written and verbal communication that did take place resulted in some victims and witnesses feeling undervalued, side-lined and “an inconvenience” to the process. This was illustrated in evidence heard that families are told that they are not victims as the victim is dead.
296. While the criminal justice organisations outlined in their written and oral evidence the processes in place and the key stages when information should be communicated to victims and witnesses, most of which are included in the Code of Practice, it is clear that one of the key failings in the services provided to victims and witnesses is with regard to the provision of information at regular intervals and key stages in a timely manner.
297. This was particularly apparent in relation to the PPS with the evidence often highlighting frustrations and discontent with the lack of communication regarding decisions to prosecute or not and progression of the case through the court system.
297. Improving the level of communication between the criminal justice organisations and victims and witnesses and the manner in which the communication takes place is central to improving victims’ and witnesses’ experience of the criminal justice system and their satisfaction with it.
299. **The Committee recommends that clearly defined communication procedures setting out the information that must be provided to victims and witnesses and the timescales within which it must be provided should be established for each criminal justice organisation. The communication procedures should build on the obligations in the Victims and Witnesses Charter and ensure:**
- **The key milestones in the criminal justice process at which information will be provided and the timescales for provision are clearly set out**
  - **There is a proactive approach to the provision of information at each key milestone**
  - **The information provided is tailored to the needs of the individual**
  - **There is an opportunity for individuals to seek clarification/further information at any stage of the process**

(Recommendation 8)

300. **The Committee recommends that victims should be entitled to receive a transcript of bail conditions including any variations set by the Court for offenders.**

(Recommendation 9)

301. **The Committee also recommends that an easily understandable flowchart setting out case progression through the system and in particular all the various stages of a court case should automatically be provided to all victims and witnesses at an early stage in the process to assist understanding of the criminal justice system and identification of the various stages their particular case may go through.**

(Recommendation 10)

### **Accountability**

302. Due to the fragmented nature of accountability within the justice system there is much confusion around the level of service that victims and witnesses are entitled to and who has responsibility for the delivery of particular services or the provision of information at particular stages of the process.

303. The introduction of a Statutory Victim and Witness Charter and a revised Code of Practice setting out clearer standards and timescales should assist in addressing these difficulties and ensuring that the delivery of services for victims and witnesses is at the core of each organisations' operations. Each of the criminal justice organisations also need to account for the delivery of the services they are required to provide and have in place mechanisms to measure and report on performance against service standards with the aim of improving the service provided year on year.

304. **The Committee recommends that the Corporate and Business Plans for each of the criminal justice organisations should reflect their commitment to and actions for improving the services provided to victims and witnesses and should include an objective relating to victim and witness satisfaction levels.**

(Recommendation 11)

305. **The Committee recommends that each criminal justice organisation should have measurable standards and mechanisms to monitor and assess delivery of services to victims and witnesses and satisfaction levels on an annual basis and the results should be published on their websites.**

(Recommendation 12)

### **Support Provisions and Special Measures**

306. It is important that victims and witnesses of crime have access to a range of support services, including special measures, that provide practical assistance as well as emotional and psychological support and that these support mechanisms are in place for as long as they need them.

307. Crime can affect people in different ways and the thought of going to court can be daunting. Individuals will require different levels of support. The support provided must be suited to an individual's needs and an early assessment should be undertaken to enable appropriate arrangements to be put in place. Further assessments should then take place at regular intervals so that the arrangements can be adapted if the needs of the individual has changed during the process.

308. The provision of additional support, either in the form of special measures or advocacy/ intermediary services, is particularly important for vulnerable victims and witnesses. The use



of special measures can assist vulnerable and intimidated witnesses through a difficult and daunting experience when they are required to give evidence and the extension of their use in recent times is to be welcomed. Early identification of needs and regular review throughout the process to address changing requirements is necessary to ensure that all those who require additional support have access to the range of measures available. The Committee notes the intention of the Department to introduce an advocacy service and an intermediary scheme to assist vulnerable people and will monitor progress to ensure these are taken forward as quickly as possible.

309. Issues were identified regarding accessing special measures including a lack of understanding by all parts of the criminal justice system of the measures that are available and who is eligible to apply, a lack of consistency regarding the assessment for special measures and when this takes place, a lack of communication between the criminal justice organisations regarding individuals' needs and the absence of a formal review mechanism during the process to identify if/when an individual's needs change.
310. Another key characteristic of the evidence received was that many individuals, particularly in relation to serious crime, did not feel they received the necessary practical support as their case progressed through the system or to deal with the impact of the crime. Issues highlighted included the financial impact on individuals and their families (travel/accommodation costs, loss of earnings etc.) and the lack of counselling and therapeutic support provided.
311. Victim Support also highlighted the constraints imposed by the current opt-in system where individuals must consent to being approached by that organisation which prevents it from offering services and support to all who may require them. The result is that the needs of some victims are being overlooked. This was also an issue highlighted by the Probation Board in relation to its Victim Information Scheme.
312. **The Committee recommends that a comprehensive formal assessment process should be introduced to identify the needs of individual victims and witnesses in relation to special measures and other support requirements at the earliest stage and the assessment revisited and revised as necessary as the case progresses. This is particularly important for victims and witnesses of serious crime.**  
(Recommendation 13)
313. **The Committee recommends that in relation to serious crimes resources should be provided for practical support services including trauma counselling. These should be available from the crime occurs, throughout the process and beyond if necessary.**  
(Recommendation 14)
314. **The Committee recommends that an opt-out system regarding being approached by Victim Support and the Probation Board should be developed to replace the current opt-in system.**  
(Recommendation 15)
315. **The Committee recommends that further research and analysis should be carried out to provide a clearer understanding of how avoidable attrition i.e. where a victim/witness withdraws or retracts their evidence, can be minimised and victims/witnesses better supported.**  
(Recommendation 16)
316. **The Committee recommends that the Department of Justice includes actions to address the specific issues raised in relation to children and young people, victims and witnesses**

**with communication needs, victims and witnesses who do not have English as their first language, victims of hate crime and victims of domestic abuse and sexual violence in either the new 5 year strategy for victims and witnesses or other appropriate means such as the proposed new strategy for tackling domestic and sexual violence and abuse.**

(Recommendation 17)

317. The Committee was impressed when it viewed the NSPCC Young Witness Service remote live link project in Derry/Londonderry and notes that the subsequent evaluation report found the pilot to have been successful in reducing fear and stress in young witnesses which leads to more witnesses being able to provide their best evidence and more cases completed.

318. **The Committee recommends that the provision of remote live link facilities, based on this model and appropriately funded, should be extended across Northern Ireland to provide victims and witnesses access to such facilities within a reasonable travelling distance.**

(Recommendation 18)

### **Provisions at Court**

319. It is clear that many of the court buildings are not conducive to the needs of victims and witnesses.

320. The Committee observed at first hand, during visits to Londonderry, Lisburn and Laganside Courts, the limitations of the facilities and this reinforced the message from individuals, families and support organisations. Difficulties faced include lack of facilities, lack of privacy, proximity to the defendant and/or their supporters, and in some courts overcrowding due to the volume of business being conducted and the lack of a proper system for scheduling the timing of witness attendance. When visiting Laganside the Committee was also advised that the use of all the rooms available for victims and witnesses depended on the availability of volunteers from Victim Support.

321. While recognising that there is unlikely to be large amounts of capital funding available to deliver wholesale physical changes to courthouse layouts the Committee is of the view that improvements can be made to the facilities and rooms provided for victims and witnesses and the recently commissioned Review of the NI Courts Estate by the Minister of Justice provides an opportunity to do this. The Committee also believes that the scheduling of witnesses attendance could be much improved thereby reducing the length of time they are frequently required to wait and the pressure on facilities at busier courthouses.

322. **The Committee recommends that an evaluation of the facilities currently provided for victims and witnesses in all courthouses should be carried out as part of the Courts Estate review with the objective of identifying specific improvements that can be made to provide comfortable and fit-for-purpose facilities within the current buildings for victims, witnesses and bereaved families.**

(Recommendation 19)

323. **The Committee recommends that the current management of facilities and services for victims and witnesses in courthouses should be examined and in particular whether the dependence upon volunteers is appropriate and properly funded and how a collaborative approach with the Witness Care Units can be developed.**

(Recommendation 20)

324. **The Committee recommends that a maximum waiting time for witnesses should be introduced.**

(Recommendation 21)

325. **The Committee recommends that greater use should be made of specialist courts e.g. domestic violence courts and courts prioritising young persons' cases.**

(Recommendation 22)

**Delay in the Criminal Justice System**

326. The adverse impact the length of time it takes for cases to go through the criminal justice system has on victims and witnesses, many of whom are unable to move on while they wait for the criminal justice process to be completed, was an issue consistently raised. There are also specific implications for children who may have aged significantly between the crime being committed and the case coming to court.
327. The Committee recognises the major impact delay in the system has on victims and witnesses and is of the view that avoidable delay between the incident occurring and the conclusion of the case must be tackled as a matter of urgency.
328. Unfortunately the issue of avoidable delay in the criminal justice system is not new. The Committee has considered it in detail on a number of occasions and has expressed its concern and frustration about the lack of progress being made to reduce it. There is clearly still a "silo mentality" that is preventing a joined-up collaborative approach being properly adopted, particularly between the PPS and the PSNI, to address the issue. The Committee is of the view that the requirement to reach independent decisions, and to be seen to be doing so, by individual organisations in the system should not in any way prevent such an approach being embraced.
329. The Committee also believes that the Department of Justice needs to play a more important role in ensuring this issue is robustly tackled and it needs to be the focus of the highest level officials within each organisation to ensure it receives the necessary priority and response required.
330. The Committee recognises the complexity of this issue and will continue to consider proposals and measures to address the problems and review progress on an on-going basis. The Committee will also carefully consider the results of the consultations on measures to encourage earlier guilty pleas, reform of committal proceedings, greater use of video-link technology and the Minister of Justice's stated intention to introduce statutory time limits to assess the best way forward in relation to these particular proposals.
331. While delay is a common complaint with regard to the entire criminal justice process one of the key frustrations for victims and witnesses is the length of time court cases take and the number of postponements /adjournments that often occur.
332. The Committee notes the recommendation by the Criminal Justice Inspection that case management should be placed on a statutory footing and agrees with its analysis that this would be beneficial and have an overall positive effect in addressing delay and ultimately the experiences of victims and witnesses.
333. The Committee is disappointed that the Department of Justice has declined to accept this recommendation and introduce a statutory case management scheme in the foreseeable future.
334. The Committee believes that a statutory case management scheme would be a very useful tool to assist the Judiciary in ensuring cases are effectively progressed and disagrees with the approach adopted by the Department of waiting to assess the impact of the Lord Chief Justice's Practice Direction for Case Management in the Crown Court before considering the option of legislating. The issue of delay has been on-going for much too long and substantive action is required now, particularly given the detrimental effect it has on victims and witnesses, as clearly demonstrated in the evidence to this inquiry.

335. The Committee finds the reluctance of the Department to place case management on a statutory footing strange given its willingness to introduce statutory time limits to progress criminal cases and particularly given the view expressed by the Criminal Justice Inspectors that "if those two things [statutory time limits and placing case management on a statutory footing] are mutually supportive and go hand in hand, that can only be to the ultimate benefit of victims and witnesses and the entire criminal justice process in respect of delay."
336. **The Committee recommends that case management should be placed on a statutory footing and this should be taken forward in the next available Justice Bill.**  
(Recommendation 23)

### **Participation**

337. The Committee believes that it is very important that victims of serious crime and bereaved families have an opportunity to relate, during the criminal proceedings, the impact that the crime has had on them and for account to be taken of this impact. Victim Impact Statements and Reports are appropriate mechanisms to achieve this however the current system lacks clarity in relation to the completion, content and use of them.
338. **The Committee recommends that a formal system for the completion and use of Victim Impact Statements and Reports should be introduced as a matter of urgency and no later than the timescale proposed by the Department of Justice of January 2013.**  
(Recommendation 24)
339. **The Committee recommends that there should be an automatic right for Victim Impact Statements to be completed in all cases involving serious crime.**  
(Recommendation 25)
340. The Committee is of the view that while a victim or a bereaved family should not determine a sentence in a particular case there should be scope for them to indicate what in their view an appropriate sentence should be. The Committee will give further consideration to the content of Victim Impact Statements, when they should be made and how they should be presented, when the results of the Department of Justice's consultation are available. The Committee expects the Department to take full account of the evidence received during this inquiry from Victim Support, UU RPP, Women's Aid and the Law Society on this matter as part of its consultation.
341. In the evidence received a number of issues were raised with regard to the remit of the statutory compensation schemes and their operation. These included limitations in relation to the scope of the current schemes, delay in the processing of claims, the application of the criteria, the cost of legal representation during the compensation process and the requirement to inform the police 'without delay' which can penalise some victims.
342. The Committee subscribes to the view that often the compensation process is the only form of participation in the criminal justice system for an individual affected by crime. It is therefore important that the compensation schemes in place are 'fit for purpose' and the operation of them is efficient and effective. Given the issues raised the Committee believes that there is room for improvement.
343. **The Committee recommends that a review of the legislation underpinning the compensation schemes should be undertaken to assess whether it is appropriate and adequate.**  
(Recommendation 26)

344. **The Committee recommends that the issues highlighted in relation to operating procedures and processes should be addressed as part of the on-going review of how the Compensation Agency delivers its services.**

(Recommendation 27)

345. The Committee also recognises that the adoption of restorative practices can be beneficial to victims of crime and can provide answers to questions that may otherwise go unanswered.

346. **The Committee recommends that, when appropriate, the option of participation in an appropriately conducted restorative practice should be facilitated for those victims who wish to avail of this.**

(Recommendation 28)

#### **Collation of Information/ Research on the Experiences of Victims and Witnesses**

347. The limitations of the information and research that is currently available, including that provided by the NI Victim and Witness Survey, was highlighted by victim support organisations.

348. There is a lack of detailed qualitative and quantitative information, particularly on the experiences of victims and witnesses in relation to serious crimes, and also with regard to the level of performance and satisfaction rates with specific criminal justice organisations, the level and reasons for non-reporting of crime and why cases do not proceed through the system.

349. The Committee believes that the availability of detailed research and qualitative and quantitative information is a necessity to identify key issues that need to be addressed and inform policy development. The paucity of specific detailed statistical data and qualitative research across the criminal justice system is an area that requires action.

350. **The Committee recommends that an appropriate methodology for the collation of the experiences of victims of serious crime should be identified and implemented to include the experience of victims of domestic violence, sexual offences, hate crime and the nature and type of crime against children.**

(Recommendation 29)

351. **The Committee recommends that information on the experiences of victims and witnesses should be collated across each stage of the process to enable the services provided by the various criminal justice organisations to be assessed and particular issues identified and addressed where necessary.**

(Recommendation 30)

#### **Conclusion**

352. The Committee agrees with the view, as summed up in the words of one individual “I think that there is an imbalance of resources. The defendant has rights and that is how it should be. The defendant has a right to a fair trial and I am fully in favour of the rights of defendants but that should not entirely exclude some rights for victims and the families of victims. That is really important. It is not an either/or, it is a both” and believes it is now time to redress the balance.

353. The development of a new 5-year strategy for victims and witnesses provides an opportunity to make the substantial changes that are undoubtedly required. The implementation of the recommendations the Committee has made as part of this inquiry will ensure that the services provided to victims and witnesses and their experiences of the criminal justice system will be improved. The Committee expects the Minister of Justice to take full account of our findings and conclusions in the new strategy.
354. The Committee recognises that the current budgetary climate is challenging for organisations however is of the view that the changes required can be achieved largely by reprioritising and using existing resources in different ways.





Northern Ireland  
Assembly

Appendix 1

# Minutes of Proceedings



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## Thursday 29 September 2011

### Room 30, Parliament Buildings

**Present:** Mr Paul Givan MLA (Chairman)  
Mr Sydney Anderson MLA  
Mr Stewart Dickson MLA  
Mr Sean Lynch MLA  
Mr Alban Maginness MLA  
Ms Jennifer McCann MLA  
Mr Basil McCrea MLA  
Mr Peter Weir MLA  
Mr Jim Wells MLA

**In Attendance:** Mrs Christine Darrah (Assembly Clerk)  
Mr Vincent Gribbin (Assistant Assembly Clerk)  
Mr Joe Westland (Clerical Supervisor)  
Mr Kevin Marks (Clerical Officer)

**Apologies:** Mr Raymond McCartney MLA (Deputy Chairman)  
Mr Colum Eastwood MLA

**2.01pm** The meeting commenced in public session.

#### **9. Inquiry into Victims and Witnesses of Crime – Draft Terms of Reference**

The Committee considered draft terms of reference for its inquiry into the criminal justice services available to victims and witnesses of crime in Northern Ireland which would inform the content of the proposed new 5 year strategy for victims and witnesses of crime that the Department of Justice intended to develop. An outline timetable for the inquiry and possible areas for research were also considered.

*Agreed:* The Committee agreed the terms of reference for the inquiry.

*Agreed:* The Committee agreed a draft public notice.

*Agreed:* The Committee agreed to commission two research papers to inform the inquiry.

**[EXTRACT]**

## Thursday 6 October 2011

### Room 30, Parliament Buildings

**Present:** Mr Paul Givan MLA (Chairman)  
Mr Raymond McCartney MLA (Deputy Chairman)  
Mr Sydney Anderson MLA  
Mr Stewart Dickson MLA  
Mr Sean Lynch MLA  
Mr Alban Maginness MLA  
Ms Jennifer McCann MLA  
Mr Basil McCrea MLA  
Mr Peter Weir MLA  
Mr Jim Wells MLA

**In Attendance:** Mrs Christine Darragh (Assembly Clerk)  
Mrs Roisin Donnelly (Assistant Assembly Clerk)  
Mr Vincent Gribbin (Assistant Assembly Clerk)  
Mr Joe Westland (Clerical Supervisor)  
Mr Kevin Marks (Clerical Officer)

**Apologies:** Mr Colum Eastwood MLA

**2.07 p.m.** The meeting commenced in public session.

### **3. Matters Arising**

- i. The Committee considered a list of key stakeholders from which it was proposed to seek written evidence for the inquiry into the experiences of victims and witnesses of the criminal justice system and a draft press release to publicise the inquiry.

*Agreed:* The Committee agreed the list of key stakeholders from which written evidence would be sought and the letter to be issued.

*Agreed:* The Committee agreed a press release and noted that the Chairman would take part in a short video interview in relation to the inquiry for the Committee webpage.

**[EXTRACT]**

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## Thursday 10 November 2011

### Room 30, Parliament Buildings

**Present:** Mr Paul Givan MLA (Chairman)  
Mr Raymond McCartney MLA (Deputy Chairman)  
Mr Sydney Anderson MLA  
Mr Colum Eastwood MLA  
Mr Sean Lynch MLA  
Ms Jennifer McCann MLA  
Mr Basil McCrea MLA  
Mr Peter Weir MLA  
Mr Jim Wells MLA

**In Attendance:** Mrs Christine Darrah (Assembly Clerk)  
Mrs Roisin Donnelly (Assistant Assembly Clerk)  
Mr Vincent Gribbin (Assistant Assembly Clerk)  
Mr Joe Westland (Clerical Supervisor)  
Mr Kevin Marks (Clerical Officer)

**Apologies:** Mr Alban Maginness MLA  
Mr Stewart Dickson MLA

**2.04pm** The meeting commenced in public session.

**2.35pm** Mr Eastwood left the meeting.

**2.45pm** Mr McCrea left the meeting.

#### 5. **Briefing by departmental officials on the Committee Inquiry into Victims and Witnesses of Crime.**

**2.45pm** Maura Campbell, Deputy Director, Criminal Justice Development, and Brendan O'Mahony and Maurice Campbell, Criminal Justice Development joined the meeting.

**2.47pm** Mr Eastwood rejoined the meeting.

The officials briefed the Committee on the work that had been undertaken in relation to the development of a new Strategy for Victims and Witnesses of Crime.

A question and answer session followed covering issues such as the support/counselling available to victims and witnesses who have given evidence in court and who have faced hostile examination; the findings of the victim and witness survey; how communication with victims and witnesses could be improved particularly in relation to the outcome of cases; what information is currently provided to victims; whether the strategy would include actions to deal with unreported crime; how the community impact of a particular crime could be highlighted; and the impact of delay in the system on victims and witnesses.

**3.03pm** Mr Eastwood left the meeting.

**3.03pm** Mr Lynch left the meeting.

**3.13pm** Mr Weir joined the meeting.

The evidence session was recorded by Hansard.

The Chairman thanked the officials for the briefing and they left the meeting.

*Agreed:* The Committee agreed to request a response to a number of further questions from the Department.

*Agreed:* The Committee agreed to request a written up-date on progress in relation to each of the actions in the 2011-12 Victim and Witness Annual Action Plan.

**[EXTRACT]**



## Thursday 17 November 2011

### Room 30, Parliament Buildings

**Present:** Mr Paul Givan MLA (Chairman)  
Mr Raymond McCartney MLA (Deputy Chairman)  
Mr Sydney Anderson MLA  
Mr Colum Eastwood MLA  
Mr Sean Lynch MLA  
Mr Alban Maginness MLA  
Ms Jennifer McCann MLA  
Mr Basil McCrea MLA  
Mr Peter Weir MLA

**In Attendance:** Mrs Christine Darrah (Assembly Clerk)  
Mr Vincent Gribbin (Assistant Assembly Clerk)  
Mr Joe Westland (Clerical Supervisor)  
Mr Kevin Marks (Clerical Officer)

**Apologies:** Mr Stewart Dickson MLA  
Mr Jim Wells MLA

**2.16 p.m.** The meeting commenced in public session.

### **3. Matters Arising**

- ii. The Committee noted information on the current position in relation to the Committee's Inquiry into Victims and Witnesses of Crime.

*Agreed:* The Committee agreed to hold external Inquiry evidence events in Derry/Londonderry and Lisburn in December 2011 and January 2012.

**[EXTRACT]**

## Thursday 8 December 2011

### Room 30, Parliament Buildings

**Present:** Mr Paul Givan MLA (Chairman)  
Mr Raymond McCartney MLA (Deputy Chairman)  
Mr Sydney Anderson MLA  
Mr Stewart Dickson MLA  
Mr Sean Lynch MLA  
Mr Alban Maginness MLA  
Ms Jennifer McCann MLA

**In Attendance:** Mrs Christine Darragh (Assembly Clerk)  
Mr Vincent Gribbin (Assistant Assembly Clerk)  
Mrs Roisin Donnelly (Assistant Assembly Clerk)  
Mr Joe Westland (Clerical Supervisor)  
Mr Kevin Marks (Clerical Officer)

**Apologies:** Mr Colum Eastwood MLA  
Mr Basil McCrea MLA  
Mr Peter Weir MLA  
Mr Jim Wells MLA

**2.05pm** The meeting commenced in public session.

#### **4. Briefing by Assembly Researcher on Research Papers for the Inquiry into Victims and Witnesses of Crime**

**2.10pm** Fiona O'Connell, Assembly Researcher, joined the meeting.

Ms O'Connell outlined the key points in two research papers covering the status of victims in the criminal justice system and examples of good practice initiatives in relation to victims and witnesses of crime in a range of jurisdictions and answered member's questions.

Ms O'Connell agreed to provide further information on a number of areas.

The Chairman thanked Ms O'Connell for the briefing and she left the meeting.

**[EXTRACT]**

# Thursday 15 December 2011

## Northern Bank Studio, Millennium Forum

**Present:** Mr Paul Givan MLA (Chairman)  
 Mr Raymond McCartney MLA (Deputy Chairman)  
 Mr Stewart Dickson MLA  
 Mr Colum Eastwood MLA  
 Mr Sean Lynch MLA  
 Mr Alban Maginness MLA  
 Mr Peter Weir MLA  
 Mr Jim Wells MLA

**In Attendance:** Mrs Christine Darragh (Assembly Clerk)  
 Mr Vincent Gribbin (Assistant Assembly Clerk)  
 Mrs Roisin Donnelly (Assistant Assembly Clerk)  
 Mr Joe Westland (Clerical Supervisor)  
 Mr Kevin Marks (Clerical Officer)

**Apologies:** Mr Sydney Anderson MLA  
 Ms Jennifer McCann MLA  
 Mr Basil McCrea MLA

**2.03pm** The meeting commenced in public session.

### **7. Inquiry into the Criminal Justice Services available to Victims and Witnesses of Crime – oral evidence event**

The Chairman welcomed the witnesses to the meeting and outlined the structure of the evidence session.

The Chairman invited the witnesses to outline the key issues impacting on the experiences of victims and witnesses and gaps in the current service provided.

Ms Susan Reid, Victim Support NI, Mrs Pam Surplis, Support after Murder and Manslaughter NI (SAMM NI), Mr Colin Reid, National Society for the Prevention of Cruelty to Children (NSPCC), Mr Patrick Yu, NI Council for Ethnic Minorities (NICEM), Mr Hugh Campbell, University of Ulster, and Ms Orla Conway, Women's Aid Federation NI outlined the key issues impacting on the experiences of victims and witnesses and gaps in the current service provided and answered questions from Members.

The Chairman invited the witnesses to identify the priorities and actions required to improve the services provided to victims and witnesses.

#### **Provision of and Communication of Timely and Appropriate Information**

Ms Susan Reid, Victim Support NI, Mrs Pam Surplis, SAMM NI, Mr Hugh Campbell, University of Ulster, Ms Orla Conway and Ms Marie Brown, Women's Aid Federation NI, and Dr Lisa Bunting, NSPCC outlined the key communication issues and priorities that need to be addressed to improve the services provided to victims and witnesses of crime.

#### **Provision of Additional Support and Assistance**

Dr Lisa Bunting, NSPCC, Ms Jolena Flett and Mr Patrick Yu, NICEM, Ms Susan Reid, Victim Support NI, Ms Marie Brown, Women's Aid Federation NI, and Hugh Campbell, University of Ulster, outlined the types of additional support and assistance required to improve the services provided to victims and witnesses of crime.

### **Treatment of Victims and Witnesses – behavioural and attitudinal change**

Mrs Pam Surplis, SAMM NI, Ms Marie Brown, Women's Aid Federation NI, Ms Susan Reid, Victim Support NI and Ms Janique Burden, NSPCC provided examples of the treatment of victims and witnesses of crime within the criminal justice systems and outlined the requirement for behavioural and attitudinal change.

### **Participation in the process including Victim Impact Statements and Reports**

Ms Orla Conway, Women's Aid Federation NI, Ms Susan Reid, Victim Support NI, Mr Hugh Campbell, University of Ulster, Mr Patrick Yu, NICEM, Dr Lisa Bunting and Ms Janique Burden, NSPCC outlined the importance of the participation of victims and witnesses in the criminal justice process and outlined possible changes to improve the experiences of victims and witnesses of crime.

### **Compensation**

Mrs Pam Surplis, SAMM NI, and Ms Susan Reid, Victim Support NI outlined the difficulties many people experience going through the compensation process and the need for changes to the system.

### **Barriers to reporting crime/attrition rates/ collation of information on the experiences of victims and witnesses of crime**

Dr Lisa Bunting and Ms Janique Burden NSPCC, Ms Susan Reid, Victim Support NI, Ms Marie Brown, Women's Aid Federation NI, and Mr Patrick Yu, NICEM, outlined some of the barriers to reporting crime, and the reasons for current attrition rates, and highlighted concerns in relation to the collation of crime data.

### **Delay in the Criminal Justice System**

Susan Reid, Victim Support NI, Dr Lisa Bunting and Ms Janique Burden, NSPCC, and Orla Conway, Women's Aid Federation NI outlined some reasons for, and the impact of, delay in the criminal justice system and the need to address this key issue.

### **Other Priorities**

Dr Lisa Bunting, NSPCC, Mrs Pam Surplis, SAMM NI, Ms Susan Reid, Victim Support NI, Ms Marie Brown and Ms Orla Conway, Women's Aid Federation NI responded to questions from Members on issues including: the role of the Public Prosecutor, research on the experience of young people who have been the victims of crime, the treatment of victims by the criminal justice organisations, delays in therapeutic work as a result of delay in the Criminal Justice System, victims' lack of understanding of sentencing options, care pathways for individuals within the Criminal Justice System, Witness Care Units, oral evidence in committal hearings, the Integrated Domestic Abuse Programme, and awareness of special measures provisions.

The evidence session was recorded by Hansard.

The Chairman thanked the representatives for their evidence.

### **[EXTRACT]**

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## Thursday 19 January 2012

### Lagan Valley Island, Lisburn

**Present:** Mr Paul Givan MLA (Chairman)  
Mr Sydney Anderson MLA  
Mr Stewart Dickson MLA  
Mr Colum Eastwood MLA  
Mr Sean Lynch MLA  
Mr Alban Maginness MLA  
Ms Jennifer McCann MLA  
Mr Basil McCrea MLA  
Mr Jim Wells MLA

**In Attendance:** Mr Paul Carlisle (Assembly Clerk)  
Mr Vincent Gribbin (Assistant Assembly Clerk)  
Mrs Roisin Donnelly (Assistant Assembly Clerk)  
Mr Joe Westland (Clerical Supervisor)  
Mr Kevin Marks (Clerical Officer)

**Apologies:** Mr Raymond McCartney MLA (Deputy Chairman)  
Mr Peter Weir MLA

**2.02pm** The meeting commenced in public session.

#### **9. Inquiry into the Criminal Justice Services available to Victims and Witnesses of Crime – oral evidence event**

The Chairman welcomed the witnesses to the meeting and outlined the structure of the evidence session.

##### **Briefing by the Police Service of Northern Ireland (PSNI)**

**2.15pm** Assistant Chief Constable George Hamilton and Superintendent Andrea McMullan joined the meeting.

The PSNI officials briefed the Committee on PSNI's submission to the Committee's Inquiry and answered questions from Members on issues such as: the training provided to police officers in dealing with victims and witnesses; whether PSNI policies and processes are subject to victim impact assessment; the role of the PSNI victims' champion; Victim and Witness Care Units; procedures for updating victims and witnesses in relation to case progression; discretionary disposal measures; progress in relation to the establishment of SARC in NI; identification of victims and witnesses who require special assistance; levels of bureaucracy and form filling; identifying causes of delay and the value of introducing statutory time limits.

The Chairman thanked the PSNI officials for the briefing and they left the meeting.

The evidence session was recorded by Hansard.

##### **Briefing by the Public Prosecution Service (PPS)**

**3.24pm** Stephen Burnside, Acting Senior Assistant Director and Ms Una McClean, Senior Public Prosecutor joined the meeting.

The PPS officials briefed the Committee on PPS's submission to the Committee's Inquiry and answered questions from Members on issues such as: sharing information and communicating with victims, witnesses and their families; whether there is merit in formally and legally recognising the status of victims in criminal proceedings; provision for victims

and witnesses without English as their first language; the role of the Victims' Champion within PPS; communicating prosecutorial decisions; the accountability of the PPS; liaising with bereaved families; Victim and Witness Care Units; attrition rates in sexual assault and rape cases; and the role of the PPS to represent the interests of the State and the wider community.

The Chairman thanked the PPS officials for the briefing and they left the meeting.

The evidence session was recorded by Hansard.

**Briefing by the Department of Justice, Northern Ireland Courts and Tribunals Service (NICTS), and the Compensation Agency**

**4.33pm** Maura Campbell, Deputy Director, Criminal Justice Development, Department of Justice, Declan McGeown, Deputy Director, Community Safety Unit, Department of Justice, Peter Luney, Head of Court Operations, Northern Ireland Courts and Tribunal Services and Marcella McKnight, Chief Executive, the Compensation Agency joined the meeting.

The officials briefed the Committee on the Department's initial response to the emerging themes from the Committee's Inquiry and further information on the possible actions the Department is considering for inclusion in the new strategy for victims and witnesses of crime. The officials then answered questions from Members on issues such as: the statutory limitations of the Criminal Injuries Compensation Scheme 2009; average timescale for processing applications to the compensation scheme; potential review of the compensation scheme; excessive solicitors' charges in respect of assisting with compensation claims; whether there should be a Victims' Charter; the contrast of victims and witnesses service provision between different court houses; the limitations of the courts estate; the Court Estates strategy; and whether victims' rights should be put on a statutory basis.

The Chairman thanked the officials for the briefing and they left the meeting.

The evidence session was recorded by Hansard.

**Briefing by the Northern Ireland Probation Board (NIPB)**

**4.58pm** Paul Doran, Deputy Director, Roisin Muldoon, Assistant Director and Rita O'Hare, Area Manager of Victims Information Unit joined the meeting.

The NIPB officials briefed the Committee on NIPB's submission to the Committee's Inquiry and answered questions from Members on issues such as: restorative practices; engagement with victims and participation rates in the Victims Information Scheme; promoting the scheme and whether an 'opt out' rather than 'opt in' approach should be adopted; input to parole reports; integrated domestic abuse programme; the opportunity for a 'beginning-to-end' single source of communication and information for victims; and the public perception of the role of the Probation Board.

The Chairman thanked the NIPB officials for the briefing and they left the meeting.

The evidence session was recorded by Hansard.

**[EXTRACT]**



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## Thursday 2 February 2012

### Room 30, Parliament Buildings

**Present:** Mr Paul Givan MLA (Chairman)  
Mr Raymond McCartney MLA (Deputy Chairman)  
Mr Sydney Anderson MLA  
Mr Stewart Dickson MLA  
Mr Sean Lynch MLA  
Mr Alban Maginness MLA  
Ms Jennifer McCann MLA  
Mr Basil McCrea MLA  
Mr Peter Weir MLA  
Mr Jim Wells MLA

**In Attendance:** Mrs Christine Darragh (Assembly Clerk)  
Mr Vincent Gribbin (Assistant Assembly Clerk)  
Mr Joe Westland (Clerical Supervisor)  
Mr Kevin Marks (Clerical Officer)

**Apologies:** Mr Colum Eastwood MLA

**2.02pm** The meeting commenced in public session.

**3.18pm** Mr Anderson left the meeting.

#### **8. Briefing by Assembly Researcher on Research Papers for the Inquiry into Victims and Witnesses of Crime**

The Chairman informed the Committee that they would now return to the briefing by the Assembly Researcher.

**3.21pm** Fiona O'Connell, Assembly Researcher, joined the meeting.

Ms O'Connell outlined the key points in three research papers covering the statutory requirements of criminal justice agencies in Northern Ireland regarding Victims and Witnesses; Victim Impact Statements; and supplementary information on Victims and Witnesses issues and answered questions.

**3.26pm** Mr McCrea left the meeting.

**3.30pm** Mr Anderson rejoined the meeting.

Ms O'Connell agreed to provide further information on a number of issues.

The Chairman thanked Ms O'Connell for the briefing and she left the meeting.

**[EXTRACT]**

## Thursday 16 February 2012

### Room 30, Parliament Buildings

**Present:** Mr Paul Givan MLA (Chairman)  
Mr Raymond McCartney MLA (Deputy Chairman)  
Mr Sydney Anderson MLA  
Mr Stewart Dickson MLA  
Mr Colum Eastwood MLA  
Mr Sean Lynch MLA  
Mr Alban Maginness MLA  
Ms Jennifer McCann MLA  
Mr Basil McCrea MLA  
Mr Peter Weir MLA  
Mr Jim Wells MLA

**In Attendance:** Mrs Christine Darragh (Assembly Clerk)  
Mrs Roisin Donnelly (Assistant Assembly Clerk)  
Mr Vincent Gribbin (Assistant Assembly Clerk)  
Mr Joe Westland (Clerical Supervisor)  
Mr Kevin Marks (Clerical Officer)

**2.04pm** The meeting commenced in public session.

**3.25pm** Mr Weir left the meeting.

**4.30pm** Mr Eastwood left the meeting.

#### **5. Inquiry into the Criminal Justice Services available to victims and witnesses of crime**

##### **Briefing by Skills for Justice**

**4.37pm** Judith Thompson, Manager, Skills for Justice, Amanda Ryalls, Operations Director, Skills for Justice, and Susan Reid, Member of NI Country Group, Skills for Justice joined Joe Stewart, Chairman, NI Country Group at the table.

The representatives briefly outlined the work of Skills for Justice and in particular how it relates to improving the experience of and support provided to victims and witnesses in the criminal justice system.

**4.55pm** Mr McCartney left the meeting.

A question and answer session followed covering issues including how criminal justice organisations use the qualifications and accreditation framework; the uptake of victim and witness relating training within the PSNI; the numbers in Northern Ireland with qualifications in working with victims and witnesses of crime; the process involved in developing national standards; the possible benefit of the Skills for Justice training programmes to the Police and Community Safety Partnerships; the nature of advanced apprenticeships; and the role of Skills for Justice in the Desertcreat Training College.

The evidence session was recorded by Hansard.

The Chairman thanked the representatives from Skills for Justice for the briefing and they left the meeting.

**Update paper on the Inquiry**

The Committee considered a paper outlining the current position in relation to the Committee Inquiry into the Criminal Justice Services available to victims and witnesses of crime.

*Agreed:* The Committee agreed that the formal oral evidence phase of the Inquiry was complete.

*Agreed:* The Committee agreed to meet informally with those individual victims and witnesses who have indicated their willingness to do so.

*Agreed:* The Committee agreed that a visit to a Witness Care Unit in England should be arranged before the Inquiry is completed.

**[EXTRACT]**

## Thursday 23 February 2012

### Room 30, Parliament Buildings

**Present:** Mr Paul Givan MLA (Chairman)  
Mr Raymond McCartney MLA (Deputy Chairman)  
Mr Sydney Anderson MLA  
Mr Stewart Dickson MLA  
Mr Colum Eastwood MLA  
Mr Sean Lynch MLA  
Mr Alban Maginness MLA  
Ms Jennifer McCann MLA  
Mr Basil McCrea MLA  
Mr Peter Weir MLA  
Mr Jim Wells MLA

**In Attendance:** Mrs Christine Darragh (Assembly Clerk)  
Mrs Roisin Donnelly (Assistant Assembly Clerk)  
Mr Vincent Gribbin (Assistant Assembly Clerk)  
Mr Joe Westland (Clerical Supervisor)

**2.04 p.m.** The meeting commenced in public session.

### **3. Matters Arising**

- i. The Committee considered an outline programme for its visit to a Witness Care Unit in Bradford on 15 March 2012 and noted the arrangements for a number of informal meetings with individuals in relation to the Victims and Witnesses Inquiry.

*Agreed:* The Committee agreed the outline programme for the visit to the Witness Care Unit.

- ii. Fiona O'Connell, Assembly Researcher, joined the meeting at 2.05 p.m.

Ms O'Connell outlined the key points in a supplementary briefing paper on the Committee Inquiry into Victims and Witnesses of crime and answered questions.

The Chairman thanked Ms O'Connell for the briefing and she left the meeting.

- iii. The Committee considered a letter from the Minister of Justice regarding correspondence he had received from a family highlighting their experiences at various stages of the criminal justice process in relation to the death of their daughter.

*Agreed:* The Committee agreed to consider the correspondence as part of the Victims and Witnesses inquiry and that arrangements should be made for an informal meeting with the family.

**[EXTRACT]**

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## Thursday 26 April 2012

### Room 30, Parliament Buildings

**Present:** Mr Paul Givan MLA (Chairman)  
Mr Raymond McCartney MLA (Deputy Chairman)  
Mr Sydney Anderson MLA  
Mr Tom Elliott MLA  
Mr Alban Maginness MLA  
Ms Jennifer McCann MLA  
Mr Patsy McGlone MLA  
Mr Peter Weir MLA

**In Attendance:** Mrs Christine Darragh (Assembly Clerk)  
Mrs Roisin Donnelly (Assistant Assembly Clerk)  
Mr Vincent Gribbin (Assistant Assembly Clerk)  
Mr Joe Westland (Clerical Supervisor)  
Mr Kevin Marks (Clerical Officer)

**Apologies:** Mr Stewart Dickson MLA  
Mr Sean Lynch MLA  
Mr Jim Wells MLA

**2.06 p.m.** The meeting commenced in closed session.

**2.31 p.m.** The meeting moved into public session.

**4.22 p.m.** Ms McCann left the meeting.

**4.35 p.m.** Mr McGlone left the meeting.

**4.51 p.m.** Mr McCartney left the meeting.

**5.03 p.m.** the meeting moved into closed session.

**15. Inquiry into the Criminal Justice Services available to Victims and Witnesses of Crime – Initial Consideration of Possible Recommendations**

**5.04 p.m.** Ms McCann rejoined the meeting.

**5.04 p.m.** Mr McGlone rejoined the meeting.

The Committee considered the evidence received in relation to the Inquiry into the Criminal Justice Services available to Victims and Witnesses of Crime and discussed possible findings and recommendations.

**5.19 p.m.** Mr Maginness left the meeting.

**5.21 p.m.** Mr McCartney left the meeting.

**5.29 p.m.** Mr McGlone left the meeting.

**5.30 p.m.** Mr Anderson left the meeting.

**Agreed:** The Committee agreed that a draft report outlining the key findings and recommendations that had been discussed should be prepared for further consideration.

**[EXTRACT]**

# Thursday 21 June 2012

## Room 29, Parliament Buildings

**Present:** Mr Paul Givan MLA (Chairman)  
Mr Raymond McCartney MLA (Deputy Chairman)  
Mr Sydney Anderson MLA  
Mr Stewart Dickson MLA  
Mr Tom Elliott MLA  
Mr Sean Lynch MLA  
Mr Peter Weir MLA  
Mr Jim Wells MLA

**In Attendance:** Mrs Christine Darrah (Assembly Clerk)  
Ms Marie Austin (Assistant Assembly Clerk)  
Ms Roisin Donnelly (Assistant Assembly Clerk)  
Mr Joe Westland (Clerical Supervisor)  
Mr Kevin Marks (Clerical Officer)

**Apologies:** Mr Alban Maginness MLA  
Mr Patsy McGlone MLA

**2.01 p.m.** The meeting commenced in closed session.

### **1. Inquiry into the Criminal Justice Services available to Victims and Witnesses of Crime – Consideration of draft Inquiry report**

The Committee considered a draft report on the Committee's Inquiry into the Criminal Justice Services available to victims and witnesses of crime. A minor amendment was proposed to Recommendation 9, paragraph 297, and a consequential amendment to the Summary of Recommendations.

*Agreed:* The Committee agreed that the amendment to Recommendation 9, paragraph 297, and the consequential amendment should be made.

*Agreed:* The Committee agreed to consider and approve the final report at the end of the meeting.

**2.27 p.m.** The meeting moved into open session.

**5.07 p.m.** The meeting moved into closed session

### **16. Inquiry into the Criminal Justice Services available to Victims and Witnesses of Crime – Approval of final Inquiry report**

The Committee considered the final Report on its Inquiry into the Criminal Justice Services available to Victims and Witnesses of Crime.

*Agreed:* that the Title page, Committee Membership and Powers, Table of Contents and List of Abbreviations stand part of the Report.

*Agreed:* that paragraphs 1 to 18 stand part of the Report.

*Agreed:* that paragraphs 19 to 259 stand part of the Report.

*Agreed:* that paragraphs 260 to 351 stand part of the Report.

*Agreed:* that the Summary of Recommendations section stands part of the Report.

*Agreed:* that the Appendices stand part of the Report.



*Agreed:* that the Executive Summary stands part of the Report.

*Agreed:* that the Chairman approve an extract of the Minutes of Proceedings of today's meeting for inclusion in Appendix 1 of the Report.

*Agreed:* that the Report on the Inquiry into the Criminal Justice Services available to victims and witnesses of crime be printed.

The Committee considered the wording of a motion to debate the Report.

*Agreed:* The Committee agreed the wording of the Committee motion to debate the Report.

The Chairman advised the Committee that the report will be debated on 3 July 2012 and will be embargoed until the start of the debate.

The Chairman thanked the Committee team for assisting the Committee during its Inquiry and in the production of the Report.

*Agreed:* The Committee agreed to send an embargoed copy of the Report to the Minister of Justice, the Lord Chief Justice, the Director of Public Prosecutions and the Chief Constable.

*Agreed:* The Committee agreed to hold an event on Tuesday 3 July 2012, in Parliament Buildings, for representatives of the victim and advocacy support groups and the individuals who contributed to the Inquiry.

*Agreed:* The Committee agreed to provide those individuals who attend the event with a copy of the Report and to send an electronic version to all other organisations who gave evidence.

**[EXTRACT]**





Northern Ireland  
Assembly

Appendix 2

# Minutes of Evidence



- 1 10 November 2011 Departmental Briefing
- 2 1 December 2011 Focus Group meeting facilitated by VSNI
- 3 8 December 2011 CJI briefing on its report on 'The care and treatment of victims and witnesses in the criminal justice system in NI'
- 4 15 December 2011 Evidencee Event with advocacy organisations (NSPCC, NICEM, WAF, VSNI, SAMM NI and UU RPP)
- 5 19 January 2012 Evidence event with criminal justice organisations (PSNI, PPS, DoJ, NICTS, Compensation Agency, Probation Board for NI)
- 6 16 February 2012 Skills for Justice briefing





# 10 November 2011

## Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)  
 Mr Raymond McCartney (Deputy Chairperson)  
 Mr Sydney Anderson  
 Mr Colum Eastwood  
 Mr Seán Lynch  
 Ms Jennifer McCann  
 Mr Jim Wells

## Witnesses:

Ms Maura Campbell *Department of*  
 Mr Maurice Campbell *Justice*  
 Mr Brendan O'Mahony

1. **The Chairperson:** I welcome Maura Campbell, who is the deputy director of the criminal justice development division, and Brendan O'Mahony and Maurice Campbell, who are also from that division. This session is being recorded by Hansard. I am sure that members will have questions, but, at this stage, I hand over to you, Maura.
2. **Ms Maura Campbell (Department of Justice):** Thank you very much, Chairman. We very much welcome the Committee's decision to use victims and witnesses of crime as the topic of its first inquiry. We are very grateful to have this opportunity, at such an early stage in the inquiry, to brief you on our thinking around a new strategy for victims and witnesses of crime. We are happy to defer the completion of the draft strategy, which we intend to put out to consultation, until we have received and considered your report.
3. As one of your members observed on an earlier occasion, this issue resonates with all members of society. In fact, our most recent crime survey showed that something in the region of 14% of households in Northern Ireland were victims of crime over the previous year. That is why it is very appropriate for the Committee to devote a good bit of its time to the topic. We see that work as helping us to produce a strategy that could command support across the Assembly, which would place us in a very strong position to make the meaningful improvements that we want to make in services for victims and witnesses over the next five years.
4. Our written brief summarises the work that we had completed up to the point at which the Committee decided to hold its inquiry. It includes feedback that we received from a range of organisations in the statutory and voluntary sectors. We found that feedback to be pretty consistent. We were told that we need to improve how we communicate with victims and witnesses. Although the work that we have been doing since devolution to help people to navigate the justice system has been welcomed, including, for instance, the new victim code of practice that we published earlier this year, the challenge now is to be more responsive to the specific communication needs of individual victims and witnesses. The idea of responding to individual need comes through very strongly as well when we look at support for victims and witnesses, for instance, through special measures. We also see a need to have those individual needs identified as early in the process as possible.
5. Given that the justice agencies have finite resources, we need to make sure that we target support at those who need it most. Another piece of feedback that we regard as very important is that victims want more of a voice in the justice process. That is particularly the case for those who have suffered the greatest personal harm.
6. Our overall aim is to provide a more positive experience for victims and witnesses who engage with the justice system. We have set out in the paper some of the outcomes that we want to see under a number of potential

- themes. We are very open to looking critically at those themes and outcomes and at what they should be. We see your inquiry as being very helpful to us in testing those out. We have been feeding information through to Committee staff so that you are aware of the evidence base from which we have been working. However, as Committee members, you are uniquely placed to add an extra perspective to that work based on the feedback that you get from the people who walk through the door of your constituency office and perhaps even through some of your personal experiences.
7. We have not said an awful lot in the paper about specific actions to help us to achieve those outcomes, but it is something we have been thinking about. Our thinking has been heavily influenced by the recommendations that we expect to emerge from a thematic inspection of the care and treatment of victims and witnesses that the Criminal Justice Inspection (CJI) has recently undertaken. We do not want to pre-empt that report, but, by way of an update, the report was submitted to the Minister yesterday and is likely to be published, subject to the Minister's approval, in the next few weeks. It will be another important source of information for this inquiry. I am limited in what I can say about the content of the report ahead of its publication. However, given that the Chief Inspector has referred to this in one of his earlier reports, I can say that one of the main recommendations is that we should establish witness care units for Northern Ireland.
8. As to our current work, the written brief also mentions that we intend to carry on with implementing the actions set out in our action plan for 2011-12, which we published in June and which we shared with the Committee at that time. We do not want to prejudge the outcome of your inquiry, but we do not want to down tools either, so we would like to press on with those important pieces of work. I thought it might be helpful to set out very quickly where we are with a couple of the main actions.
9. First, we have been developing plans to introduce a witness intermediary scheme, and we will write to you about that in the next few weeks. Briefly, the role of the intermediary will be to help witnesses who have communication difficulties to provide evidence at the investigation and trial stages, and also to help the judge, jury and legal representatives to understand the answers that the witness gives in court. That is part of our drive to improve everyone's access to the justice system.
10. Another important area of our work relates to victim impact statements and victim impact reports. Although those are already available in this jurisdiction, we see scope to improve how they are used, and we will provide you with a separate written brief on that issue for consideration at your meeting on 17 November. I think that that paper issued from our Minister's office earlier today.
11. Related to that is the issue of community impact assessments. You might recall that the Chief Inspector of Criminal Justice recommended that we look at the feasibility of applying those to Northern Ireland. Again, by way of an update, we had produced a draft feasibility study earlier this year. We had done that by June, because that was the target date set for us by Dr Maguire. However, we deferred submitting the paper to the Minister as we were awaiting decisions on the way forward for England and Wales, which, at that time, we had understood were coming through in a couple of months' time. We thought it important to be able to reflect the learning from England and Wales because it is the only jurisdiction that we are aware of where community impact statements have been trialled. Just recently, in the past few days, we have been advised by colleagues in Whitehall that it may be some months yet before decisions on the way ahead for England and Wales are made. So, we now think that it would be better to proceed with finalising and publishing our own report. We hope to do so in the next couple of weeks, and we will, of

- course, provide the Committee with a copy of it.
12. We very much welcome the Committee's decision to conduct this inquiry, and we look forward to receiving your report. We will ensure that your conclusions inform the draft strategy when we issue it for consultation, and we stand ready to assist the Committee in any way that we can. We are happy to take your questions.
13. **The Chairperson:** Thank you very much, Maura. Members have questions, and I have a couple of initial questions. You have held some workshops with victims to date, and the issue of late guilty pleas was highlighted. What were the other key issues that came out of those workshops?
14. **Ms Maura Campbell:** They are the sorts of themes that we have covered in the paper, and they are mostly around communication and personalising the service that we give. We are quite good at one-size-fits-all and at producing publications that give general information about the justice system. However, victims are reporting to us, through their representatives, that what they really want are ways of finding out quickly what is happening in their specific case. That is where we need to make most improvement.
15. **Mr Wells:** As I said earlier, I have sat through many a court case in my time for various reasons. With my background, facing a QC or a junior counsel as a witness or a victim is not just as traumatic, but, for an awful lot of ordinary people, it is the most horrendous experience. Nothing in their life has prepared them for what they face. I have seen many cases of a solicitor or barrister basically tearing a witness to pieces — there is no other way to describe it. These guys are very articulate, very cold and cutting and very capable. If it is quite obvious that the witness has had a dreadful run, particularly in a case involving sexual harassment or some form of attack on a young woman, which can almost be a life-changing experience, does anyone give any form of psychiatric help or counselling to that person or are they left entirely on their own?
16. **Ms Maura Campbell:** Victims can receive counselling, but there are issues with what they can disclose in the course of that counselling and the need to ensure that it does not in any way affect the evidence going forward. That is why we have recently produced guidance for practitioners on achieving best evidence and on signposting to other services. However, we need to build on that through the new strategy.
17. What you are reporting about the effects of hostile cross-examination chimes with what we are hearing through the Northern Ireland victim and witness survey. About half of respondents reported that they found their treatment in court difficult, and that is particularly the case for victims of personal assault, including sexual assault. As you are aware, we are, as a Department, trying to remove the requirement for people to attend preliminary inquiry proceedings and to make the system paper-based. One problem is that people are effectively being cross-examined twice in some cases. We have already started looking at raising awareness of the effect of inappropriate or hostile cross-examination, and we want to carry that through into the new strategy.
18. **Mr Wells:** There have been rape trials in Northern Ireland where the intent of the QC was to paint an extremely dark picture of the victim or witness. It struck me when reading some of the reports that there does not seem to be any guidance to magistrates or judges on when they should intervene to try to protect the witness. It seems that witnesses are regarded as fair game. Will your strategy contain some guidance for those who hear those cases?
19. **Ms Maura Campbell:** Ultimately, it will be for the judge to determine how proceedings are conducted in court, but it is certainly an issue that we have been highlighting due to the feedback that we are getting from victims. There is a feeling that more could be done.

- Joyce Plotnikoff has looked at the experience of young witnesses and has made some recommendations that the local judiciary is aware of.
20. **Mr Maurice Campbell (Department of Justice):** In the last Northern Ireland victim and witness survey, a low proportion of respondents who had been cross-examined thought that the barristers for the other side had been courteous towards them. As Maura said, it was only 15%. So, there is a problem, in that people feel that they are being harassed by the opposing barristers.
21. **Mr Wells:** Courteous barristers are like Italian war heroes — they do not exist. They are not paid to be courteous in court. Their role is to be adversarial and to undermine the witness, not to be complimentary.
22. **Ms Maura Campbell:** Unfortunately, there will always be an adversarial aspect to the justice system because of the way it is set up constitutionally. However, we want to try to minimise the impact of that hostile cross-examination. You are right: there is perhaps scope for better guidance on what is and is not appropriate. I do not think that the requirement to robustly challenge evidence will ever be completely removed, so there will have to be some probing and questioning of witnesses. However, we have flagged that issue with the judiciary through the criminal justice issues group, and we intend to explore it over the next period.
23. **The Chairperson:** Your work does not include surveying the experiences of victims of serious crime; is that right? Who are you getting the statistics about the victims from? What level of crime is it?
24. **Mr Maurice Campbell:** We omit sexual offences and children's cases but any other cases are generally included in the Northern Ireland victim and witness survey.
25. **Ms Maura Campbell:** The point is that we are not going to rely solely on the findings of the Northern Ireland victim and witness survey in developing the new strategy. We will look at other sources as well. For instance, we commissioned some research from Queen's and the National Society for the Prevention of Cruelty to Children (NSPCC) on young victims and witnesses, because that is an area that is not covered in NIVAWS. We are looking across to the work that is being done through the sexual violence and domestic violence strategies. We have also been talking to such organisations as the Nexus Institute and the Rape Crisis and Sexual Abuse Centre to get direct feedback.
26. **Mr Wells:** Is there any particular reason why those types of offences were not included in the research?
27. **Ms Maura Campbell:** It is simply to do with the fact that the methodology was not appropriate for approaching those individuals. The survey was done by telephone, and it was not thought appropriate to ask people to recount their experiences in that type of survey over the phone. It was out of deference to the potential impact on the witnesses.
28. **Mr Wells:** I suspect that if you had some way of gauging reaction from those witnesses and victims, your figures would have been rather different, because I would say that the majority of people come out of those hearings feeling far from happy about the way in which they were treated.
29. I witnessed a very serious car accident many years ago; in fact, I was the only witness. I remember going to court and, as it turned out, my evidence was the difference between a verdict of guilty or innocent, because I was the only witness to the event. After the hearing, I remember thinking that that was that. There was no comeback. I walked in, I gave my evidence and I walked out. I have never heard a thing since. The accident that I witnessed was quite serious, and the gentleman was very seriously injured; in fact, he lost his two legs and one arm. It was not particularly easy for me to recount what I saw, but, following the court case, I merely walked away. In all the years since that, nothing

- has happened. Is that still the case? Would I still be in that position?
30. **The Chairperson:** Are you asking whether you would be told of the outcome now?
31. **Mr Wells:** I found out the outcome only because I read it in the press a few days later. Equally, the fact is that it was not a very pleasant thing to do, but no one ever thanked me for it. I walked away, and that was that. Is that still the case?
32. **Ms Maura Campbell:** One of the questions asked in NIVAWS was whether witnesses or victims were told about the outcome of the case. About 20% of respondents said that they had not heard the outcome of the case. That is too high. We should be making every effort to ensure that, if people have gone to the trouble of coming forward and bringing forward evidence, they should, as a courtesy, be advised of the outcome.
33. **Mr Maurice Campbell:** Some 81% were aware of the outcome. It has more or less stayed the same over the past three years. This time, it was the people who did not stay until the end of the case who missed out on the outcome and had not been notified.
34. **Mr Wells:** I was aware of the outcome; I found out from the front page of the 'Belfast Telegraph', I think it was. However, I thought that someone would have rung me and explained the outcome and said that they were very grateful that I had come forward. What happened would not encourage me to come forward again. I would, of course, but an average person would say that they would not bother, if that is how they are treated.
35. **Ms Maura Campbell:** We are hoping that the recommendation around witness care units could assist with that and a number of other issues, because the establishment of witness care units for Northern Ireland would help with achieving a more seamless service for victims and witnesses from the time that they enter the justice system until the conclusion of the case. At the moment,
- the duty to keep in contact with victims and witnesses passes from one agency to another. Having one point of contact would help with driving up performance in sharing communication.
36. **Mr Wells:** I never got my bus fare to the court either. *[Laughter.]*
37. **Ms Maura Campbell:** We will follow that up for you, if you like.
38. **Mr McCartney:** That is because two counsel were involved.
39. **The Chairperson:** You should have got senior counsel.
40. **Mr McCartney:** Thank you for the presentation. I am struck by the victim aspect. It seems that we deal with this only when people are right in the system. I am asking this because we have to set the terms of our inquiry. We ask such questions as: What is the process around the victim impact assessment? What should it be? What is the best practice? Last week or the week before, assaults on the elderly became very topical. Absent from the process was someone coming in and spelling out the precise position. Is there a role for the Department, rather than seeing working with victims and witnesses as something that we begin to do as they are in the system?
41. People make claims on radio programmes and elsewhere about what sentences were in place and what sentences were available, yet no clarity comes out of that. If I were a witness to a crime where someone was assaulted, I might think that, based on what I heard on the radio last week, there is no point in coming forward because the assailant would get only a smack on the wrist. I would wonder whether it would be worth all the harassment that I would get. We may speak about that when we lay out the terms of our inquiry.
42. It is obvious from the Department's documentation that unreported crime is still a big issue. That is down to a number of factors, and we can examine those. One factor is that people do not wish to go into a system that they



- believe can end up swallowing them up. Jim Wells outlined the experience of many people who have been witnesses. He said that they are brought in and cross-examined. That is not a great experience, and no one ever thanks them or has a chat with them, a month later, to see whether that person has had a traumatic experience that still impacts on their life. They might not need to be witnesses ever again, but they might take the view that they never want to do it again because of their experience. It is about trying to get some sort of system to deal with that.
43. The inquiry will have to explore the community impact. A trial judge may not have a sense of the impact of a particular crime. It may be understandable that he has to deal with the specific case, but if it is not brought to his attention that a particular crime, for example attacks on elderly people, has a big impact on the victims' confidence, the judge may see it only as assault and deal with it by the statute. The assault may not be serious, based on the physical injury caused, but, based on victim and community impact, it may have caused a lot of concern among elderly people.
44. **Ms Maura Campbell:** You are right to say that the focus of the strategy is primarily from the point where the victim comes forward and reports the crime to the disposal of the case. It is very likely that the Committee, in the course of its inquiry, will hear about issues concerning underreporting. One of the ways in which you encourage people to come forward is by showing that those who come forward can be treated with dignity and respect. If you improve the performance in that area, it should help with that.
45. If specific issues come through in your inquiry, the Department will need to respond to them in some way, either through its strategy or other work, such as the community safety strategy. Across the Department, quite a bit of work is under way on encouraging higher levels of reporting of sexual crime, where we know that there is massive underreporting. That also applies to domestic violence and hate crime. However, if, from your consultations, there is a feeling that more needs to be done on other types of crime, the Department will need to respond to that.
46. **Mr Lynch:** Some of my points have been covered already by my colleague. One of the big difficulties around the criminal justice system is the existence of a hierarchy, from which victims can feel very isolated. There is a judge, prosecution, defence and then the victims. How do you propose to level that out?
47. **Ms Maura Campbell:** We often get feedback that victims feel that they are on the periphery of the system. Part of the way that you level that out is to give them more of a voice in the proceedings themselves, which is why we are looking at issues such as victim impact statements and victim impact reports. We are also looking at anything that we can do to help them to understand the process, what is happening and what is going on.
48. It will always be the case that the role of the victim is something different. It is not on a par with the rights and entitlements of a defendant under the law. That does not mean that we should not try to make people feel that their contribution is valued. The chief inspector has been drawing out that theme in his investigations. I do not want to quote from the report because it is not yet published, but he has examined that in some depth.
49. **Mr McCartney:** Would a victim of a crime who is involved in a court case be told what the sentencing possibilities are in that case?
50. **Ms Maura Campbell:** You would normally expect that they would have some sort of indication of —
51. **Mr Maurice Campbell:** They should be told all the way through the system.
52. **Ms Maura Campbell:** what the likely outcome might be.

53. **Mr McCartney:** Not the likely outcome, but if a victim of an assault were to appear in court tomorrow, could they be told, for example, that the trial judge has the power to suspend the sentence for a maximum of 12 years? I ask that because under the ‘Desired Outcomes’ heading on page 16 of your submission, it states that:

*“Victims can tell the court exactly how the crime has impacted on them personally.”*

1. *You can understand that if you have been physically assaulted, etc. However, there should be provision for a victim to be able to say that they do not think the law dealt with them adequately. The last bullet point states that:*

*“The criminal justice system responds appropriately to the voice of the victim.”*

2. *Then they might get an understanding how sentences are imposed. Sometimes, the victims do not feel best served.*

54. **Ms Maura Campbell:** We could look at how much information the victim receives in respect of the likely outcome. It is partly about trying to avoid gaps in expectation, because, if people are expecting something to happen and something very different occurs at the end — and we have seen that with some high-profile cases — it can lead to the victim feeling as though they have been very much marginalised. However, with victim impact statements, the focus is very much on the impact on the victim, and it is left to the judge to decide how to take account of that when arriving at a disposal. In those sorts of statements, we do not invite victims to indicate what they think the punishment should be. However, we want to look at better guidance for victims on what those statements are for and how they can be used.

55. **Mr S Anderson:** Thank you for your presentation. Jim talked about not being told of the outcome of a case that he was involved in. In my experience, for the people who are willing to come forward as witnesses and for the victims, the problem is the length of time that it takes to get the case to court. That weighs very heavily

on those people in the sense that it causes anxiety. If they are the victim, it never goes away, but the investigation continues, the police keep coming back to them and they can never relax. It could take 12 months or longer for the case to come to court, and, throughout that whole time, it causes great trauma to those people. It is probably difficult to speed the case up and get it to court, but that has been my experience, and it has caused great trauma to those people. Therefore, we have to work to ensure that people are willing to come forward and that they are assisted in some way to get those cases to court if the evidence is there.

56. **Ms Maura Campbell:** I agree with that, not just because you hear phrases such as, “I felt that my life was on hold while the case was going forward”, but also because, when the time comes for the victim or witness to give evidence, it can be very difficult for them to recall something that happened maybe two years previously. Therefore, it is certainly an issue that needs to be tackled.

57. **Mr S Anderson:** It is difficult for anyone to recall every detail of something that happened, but if they have gone through a bad time, it would be even more difficult to recall every detail. The time lag is a difficulty.

58. **The Chairperson:** Thank you for coming along today. We will have our inquiry, and I am sure that it will be reflected in the consultation document when it comes out. Hopefully, we will see you again a fair amount over the next number of months. I look forward to it. Thank you very much.





# 1 December 2011

## Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)  
 Mr Raymond McCartney (Deputy Chairperson)  
 Mr Stewart Dickson  
 Mr Seán Lynch  
 Mr Alban Maginness  
 Ms Jennifer McCann  
 Mr Peter Weir

## Witnesses:

Miss Claire Cassidy	<i>Victim Support</i>
Miss Geri Hanna	<i>Northern Ireland</i>
Mr Colm Keenan	
Mr Paul Nolan	
Ms Susan Reid	
Mr Mark Wright	
Mrs Rhonda John	<i>Focus Group</i>
Mrs Mairead McElkearney	
Ms Emily Rankin	

59. **The Chairperson:** Thank you very much for coming along today. We are outside Stormont, which is a good thing. I will hand over immediately to Susan, who will take us through this afternoon's session.
60. **Ms Susan Reid (Victim Support Northern Ireland):** Thank you very much. First, I would like to welcome you all. In a minute, there will be introductions. However, I want to formally thank the Youth Justice Agency for allowing us the use of its room this afternoon. I would like to say a particular word of thanks at the outset to Mairead, Emily and Rhonda for their participation in this afternoon's session, which I truly believe will make an important contribution to the evidence that the Committee will provide to the next strategy for victims and witnesses in Northern Ireland.
61. By reporting to the police, victims and witnesses have chosen to engage with the criminal justice system. In the common law adversarial process, this means that, technically, the case is that of the state versus the accused. The state takes responsibility for considering evidence and public interest before coming to a conclusion, which must be beyond reasonable doubt, as to whether the accused has broken a law or laws. Therefore, technically, the case is that of the state rather than those harmed by the crime.
62. That is why it is not realistic to argue for victims to be at the heart of the criminal justice system. However, the experience that victims and witnesses have when they engage with the system should be core business for each of the agencies and organisations that make up the criminal justice system. Their experience and treatment should be at the heart of system planning, professional training and performance measurement in the criminal justice system.
63. That might not be as attractive a sound bite as, "putting victims at the heart of the criminal justice system". However, such a focus might just make the difference that is needed. That difference needs to be continuous and ongoing year-on-year, not just a side project, side issue, course or even four-year plan. We want to challenge the perspective expressed to me by a senior professional in the system quite recently, when I was told, "we have already done victims and witnesses".
64. Our challenge to the criminal justice system is to identify where improving the treatment of victims and witnesses comes in the overall agenda of each organisation and agency. Is it core business or a side issue? How many organisations and agencies in the criminal justice system have targets and systems year-on-year to assess the experience of victims and witnesses in Northern Ireland? How many professionals and staff in the system have an understanding of the impact of crime on victims and witnesses as part of their continuous

- professional development? How much money is being wasted on systems in which organisations operate while not delivering a service to victims and witnesses? When changing systems, do organisations assess the impact to victims?
65. More than a year ago, we assisted Criminal Justice Inspection in contacting people who have been harmed by serious crime. That is not to say that all crime is not serious. However, using the language of the system, it meant people who had experienced sexual or domestic violence or who had been affected by murder or manslaughter. As those are not covered by the Northern Ireland victim and witness survey, which we note is not planned to continue as such next year, there was some irony in the fact that it would be well over a year, by next week, when the report is due to be published.
66. We believe that victims' voices need to be not only heard but responded to in a timely fashion. That is why we commend the Committee for making the effort to hear directly from people who have experienced the system. Before I attempt to act as a guide to their journey through the system, as a courtesy to them, and although I have already thanked them privately, I want to thank them again publicly for their generosity in making the time and effort to be here today.
67. Chairman, may I ask you to introduce yourselves, so that the witnesses know to whom they are talking today?
68. **The Chairperson:** Yes, of course. That is no problem. I am Paul Givan, a Lagan Valley Assembly Member and the Chairperson of the Committee for Justice.
69. **The Committee Clerk:** I am Christine Darrah, the Clerk of the Assembly's Committee for Justice.
70. **Mr Paul Nolan (Victim Support Northern Ireland):** I am a witness service co-ordinator at Laganside Courts.
71. **Mrs Rhonda John (Focus Group):** My name is Rhonda John.
72. **Ms J McCann:** I am one of the MLAs for West Belfast and a member of the Committee for Justice.
73. **Mr Dickson:** I am an MLA for East Antrim and a member of the Committee for Justice.
74. **Miss Claire Cassidy (Victim Support Northern Ireland):** I am a researcher with Victim Support.
75. **Mr Colm Keenan (Victim Support Northern Ireland):** I am a community co-ordinator for Victim Support. I am based in Belfast.
76. **Mr A Maginness:** I am a member of the Committee for Justice and an Assembly Member for North Belfast.
77. **Mr Mark Wright (Victim Support Northern Ireland):** I am the criminal injuries compensation service manager for Victim Support.
78. **Miss Geri Hanna (Victim Support Northern Ireland):** I am the operations manager for Victim Support.
79. **Mrs Mairead McElkernay (Focus Group):** I am Mairead McElkernay.
80. **Ms Emily Rankin (Focus Group):** I am Emily Rankin.
81. **Mr Lynch:** I am an Assembly Member for Fermanagh and South Tyrone and a member of the Committee for Justice.
82. **Mr McCartney:** I am an MLA for Foyle and a member of the Committee for Justice.
83. **Ms Reid:** Thank you very much. I draw members' attention to two key documents in the information packs that we have prepared for you this afternoon, as they may help with the next part of the session. We have included a process map, which is an attempt to summarise the journey, if you would like to put it that way, from end to end — from reporting a crime through to disposal. In the next hour and a half or so, we will try to structure the conversation, as appropriate, around that journey. The other piece of

- information that should be in your packs is a short pen picture of the cases represented here today, which you may want to reference.
84. Before we begin, I thought that it would be helpful to share with you some of the stories of the other people who should have been here today but could not make it. I am looking to my colleagues from Victim Support. Will you help me by summarising the cases of the people whom we hoped would be here and the reasons why they could not make it? I think that it is quite important to say what has prevented them from participating in this afternoon's process.
85. **Mr Wright:** The first victim who intended to be here today sends her apologies. She is Lauren Bradford, whose mother was murdered. It is a case that some people may be familiar with. Unfortunately, she could not make it today. The Police Ombudsman for Northern Ireland is publishing the report on her mother's murder investigation, so she is not able to attend. However, she has given me permission to share any of her experiences that may help the Committee to understand her experiences of the system, so I will be doing that.
86. We had hoped that another of our clients, who was at a hearing this morning regarding criminal injuries compensation, would come along. His experience of the system centres on his interaction with the PSNI, and he is willing to make statements on that interaction with the system. Unfortunately, he cannot make it because he is a carer for his wife and cannot come out for the rest of the day.
87. **Ms Reid:** Colm, do you wish to discuss a couple of wee topics as well?
88. **Mr Keenan:** Yes. The first case is about a young man called Joseph Byrne, who was the victim of identity theft. He went through a long process of clearing his name. He works for a production company that is moving premises and that has gone over schedule, so he will not be able to make it today. The second case is about young lady called Katrina Cassidy, who was the victim of domestic abuse. Katrina is a teacher, and she had to take a lot of time off work to go through a court case that is not as yet complete, so she cannot get the day off to be with us. Both people have given express permission for their cases to be discussed here today.
89. **Ms Reid:** In preparation for this afternoon's session, one thing that we invited our participants, Mairead, Emily and Rhonda, to think about was the title that they would like to give the story of their experience in the criminal justice system. So, by way of kicking off the session, Emily, can I — I was going to say pick on you but that is not a very good choice of words — invite you to share the title of your story?
90. **Ms Rankin:** From off the top of my head, as it were, I put down, "a long, tortuous and frustrating saga". That was our story of our journey through the legal process.
91. **Ms Reid:** What about you, Rhonda?
92. **Mrs John:** I just put down, "when the system fails you".
93. **Ms Reid:** The other things that we asked you to think about were the main messages that you want the Committee to hear from you today. Rhonda, I will start with you this time.
94. **Mrs John:** Isolation was one of the main things that I felt, as well as the sense of being let down by the Police Service. I felt as though I was a victim over again, in a different sense. I did not get any updates from the police. The changing of police officers throughout the trial was another thing that concerned us.
95. **Mrs McElkerney:** Lack of communication was the biggest issue with which we had a problem. Nobody told us anything. We tried really hard to build bridges and to make contacts in order to get an answer from anybody.
96. **Ms Rankin:** Overall, we thought that what would improve the system would be a dedicated liaison officer — someone who would act on behalf of

- the family. As Mairead said, we had to build bridges and fight very hard to get information. We did get it in the end, and we did have good relationships, but it was always done almost on a favour basis, so we think that we need someone who has access to all parts of the process, including the agencies, and who has a right to ask for updates.
97. Rhonda mentioned communication and that kind of thing and the fact that she was not given enough information. We had to battle our way through it. It probably took us two of the three years to establish relationships by keeping at people. In the end, we did. Although now that we have passed the stage of the sentencing and guilty verdict, we find that an appeal has been lodged and that, again, there is no one to tell us where to go for information. We are always excluded and we almost felt like a nuisance in the process.
98. **Ms Reid:** Will you say a bit more about what that sense was like?
99. **Ms Rankin:** We were advised early on. I cannot tell you who said particular things. Our mother was murdered and we were very distressed. As a family, we decided that we would attend everything and make sure that we knew everything that was going on. So, some of us attended every single court appearance. I think that we counted at least 55 days that we spent in court over the period of two years and 10 months. At the beginning, we were told that there was no need for us to attend. We were often told not to go, that there was nothing that we could do and that we would not understand the process. We kept at it all the time and we kept going — we did understand the process. We were advised not to attend certain parts of the trial because they were technical and, therefore, we would not understand them, but we did understand them.
100. The only way that we could know what was going on was to attend every single mention in the Magistrate's Court. The Magistrate's Court lasted for 17 months, at roughly monthly or six-weekly intervals. It was a total waste of time.
- With the seriousness of the case, it could never have been dealt with in the Magistrate's Court. It should have gone straight to the Crown Court. So, those were the types of things on which we were told not to bother. When we complained about not knowing things, we were told more or less that we did not need to know. As far as the prosecution was concerned, barristers do not talk to families. There were all kinds of throwaway remarks and that kind of thing.
101. That is what I mean about feeling that we were a nuisance. We kept at it all the time. We kept insisting that we were heard and that we were informed. As a result, we were well prepared when we got to court. It was a very harrowing process to have to go through and listen to, but we prepared ourselves well for it. However, that was due only to our dedication to it, to be perfectly honest. You need someone there to fill you in on what is happening — not necessarily on the details of the case, because there is a lot of confidentiality — why it is happening, and what the process is, and to support you in that way.
102. **Ms Reid:** I will take you back to the beginning. How did you find reporting the crime in the first instance, Rhonda? What was your experience?
103. **Ms John:** Reporting the crime was fine. We thought that would have been the worst part, but it was not. Reporting the crime was great; we got it out of our systems a bit. It was what happened afterwards. As Emily said, each time we phoned the police, we were told nothing. There was nothing to tell. We were stopped in Tesco and told by people when the case was going to court. Then, when we got back to the officer in charge, he said that he did not know that. We were not told anything. We are now starting to come to our case. He has been found guilty on seven charges. We are now going back for another four charges. We have started to go to everything in the court, because no one else tells us anything.

104. When we phone witness services, they help us as much as they can, but we have to be in court. Even though we did so, the police officer said that there was no point in our being there and that we might as well leave and that they would phone us. We are still waiting for that phone call. Nobody comes back to you.
105. Incidents have happened at my property and I have had to move twice in eight months. I have pages and pages of incidents. The police would not recognise that it was intimidation. They put it down to racism. It has cost me a lot of money, and there is no financial help. The police came out and told me what needed to be secured in the house, but I told them that I could not afford to do it. They then said that there was nothing that they could do. There is just nothing available.
106. **Ms Reid:** Emily and Mairead, what was reporting the crime like for you?
107. **Mrs McElkearney:** My uncle and my sister found my mum's body, and the police took over. Our experience with the police was very positive and they were very supportive. There was a lot of contact with the police in the first couple of weeks. The police liaison officer was in the house nearly all day, every day, collecting information from us. It was back and forth — a two-way system. Police liaison officers are under-resourced. He was there and he was effective initially, but then he was off and he was not part of the process after that, or had very little input.
108. A very good friend of ours is a criminal solicitor, and he told us at the start to go to everything in court. We were given the right direction by him and that is how we ended up knowing and preparing ourselves. Rhonda is only finding that out now. Our friend drew up a plan of the whole process. He said that the person would be charged, it would then go through the Magistrate's Court and then to arraignment — all the things that you do not know. We knew what to look out for and, therefore, we knew what questions to ask and we followed that all through. The police were very supportive all through and kept us informed. We built up good communications with them. If they heard anything, they would phone us and let us know. They were always there if we had any questions, and they tried to find the answers.
109. **Ms Reid:** How did you find the experience of giving your statement?
110. **Mrs John:** Giving the statement was fine. They came out to the house. It was held in our home, and we were put at ease. They were quite good with that.
111. **Ms Reid:** Emily and Mairead, did that affect you? Did you have to give a statement?
112. **Mrs McElkearney:** Yes, I had to go to Garnerville to give a video statement. It was grand. They really did put you at your ease and helped you along the way.
113. **Ms Reid:** How long was it from giving your statement until you had to attend court?
114. **Ms Rankin:** Do you mean until the actual start of the trial?
115. **Mrs McElkearney:** Two years and eight months.
116. **Mrs John:** I think mine was around about that time — about two and a half years.
117. **Ms Reid:** What was life like during that period?
118. **Mrs McElkearney:** It was like being in limbo. You were just waiting for each step. You never knew the long-term plan. Your life was on hold for two years and 10 months — completely on hold. You could not plan anything and you could not go anywhere. You did not know what the next stage would be. At each court appearance, you found out when the next court appearance would be and what it would be about. You could not plan to go for a week's holiday just to get your head cleared. We had a family wedding in the middle of it — the first of the next generation. They had to arrange it a year later than originally planned because we thought that we would be in trial. It turned out that the wedding was going to fall right in the middle of



- when the trial was meant to be running. In the end, the wedding came and went and the trial was three months later. That could not be changed. We could not make any plans for nearly three years because we were following a process through.
119. **Ms Reid:** Rhonda, you mentioned having to move house twice. Were there any other consequences for you in your work? Did you incur any other costs during that period? How did it affect your life?
120. **Mrs John:** I had to move home twice but I still had to pay for two houses. The bungalow was mine, and I had to maintain the mortgage on it. Some family members were still living in the bungalow, and I had to set up home again. My furniture is now in storage. It has been pretty hard.
121. **Ms Rankin:** We found that we incurred a lot of expenses. There are only two children out of eight — if you could call them children — in Northern Ireland. Most live outside Northern Ireland, in England, and I live in Dublin. We found that there were an awful lot of expenses for flights, boats and other forms of travel. We also had to take time off work. We all had to take periods of sick leave, but extended periods of sick leave and compassionate leave were also needed in some cases. In the main, our employers were very considerate, although one of my sisters who worked in the health service in Britain had a really rough time and had to take early retirement. There were also a lot of lost earnings, and one of my brothers, a self-employed engineer, could not commit to any contracts for a full year. The trial date had been set for 1 November 2010, but the trial only ended on 28 October 2011. We had four clear trial start dates, and a lot of earnings were lost and a lot of expenses were incurred during that period.
122. My mummy's house was locked up as a crime scene for a year and four months, and restoring the house and getting it going again was difficult. There were a lot of hidden expenses.
123. Our employers suffered an awful lot, too. There are teachers and nurses in the family and, for example, many substitute teachers had to be employed. We were given a definite trial date and a substitute teacher was employed for a number of months to cover the trial. However, the trial was then cancelled at the last minute, and it was cancelled again and again. We rented houses to stay in, but it went on and on.
124. When the trial actually started, we were taken by surprise because we almost believed that the case would never come to trial. As we sat in the court when they selected the jury, the tension level went down a little notch; they had at least selected the jury. We had been there so many times before. Then we got the opening statements and we felt that it had at last actually started. We had been built up and dropped so many times.
125. **Mrs McElkearney:** It was always at the last minute.
126. **Ms Rankin:** Yes; always at the very last minute.
127. **Mrs McElkearney:** We would be in court on the day that the trial was due to start, and they would come out to tell us that the case had been delayed and that we should come back next week. When we came back the next week, they would tell us that the trial had been postponed indefinitely and that no date had been set. You would go back to court a few weeks later, when the case was next mentioned, and you would be given another date, but it would be right up to the wire with that next date and the date after that. Every time we were given a trial date, we had to get the family to come over, rent accommodation, buy the flights and organise time off work, only to be told the day it was due to start, or the Friday before it was due to start, that it was not happening again. That happened four times before the trial actually kicked off.
128. **Ms Reid:** How did you hear about the trial dates? How were you notified?
129. **Mrs McElkearney:** We went every time —



130. **Ms Rankin:** We sat in court —
131. **Ms Reid:** So, you were notified because you were there.
132. **Mrs McElkearney:** Yes. Every time we went to court, they told us when the next court date would be and whether it was a mention or a trial date or whatever. Other than that, no one told us.
133. **Ms Reid:** Did you also have that experience, Rhonda?
134. **Mrs John:** Yes. I normally phoned the witness service, and the people there checked for me. We also had two officers on our case: Paul and Silvia. When Paul was on the case, I more or less told him the dates, but when Silvia came on to the case, she was 100 times better. She talked to us more, even about small things. She phoned us and gave us her mobile number. We thought that that was absolutely brilliant, but the lead-up to the changeover was absolutely horrendous.
135. **Ms Reid:** It sounds as though you have become quite expert in the system, but can I take you back to the first day in court, to the trial? Can you tell us what that felt like?
136. **Mrs John:** I had to get special measures. I was not actually in the courtroom.
137. **Ms Reid:** Can you say what those special measures were, Rhonda? How did they work out?
138. **Mrs John:** The special measures were as follows. Paul, the police officer, was meant to do the application. However, each time we went to court, the trial was always put back, and nothing was ever done. I did not know whether I was getting those special measures. Even though my doctor wrote all the letters that were needed and did everything that was needed, I was always told that if I did not give evidence in the court, that would be it. It would be over and done with. I would not get a second run at it. So, I thought that I was being picked on because I could not take the stand. It was not until Silvia took over that things started to move forward with the special measures. So, when special measures were in place, the witness service showed me what would happen, and that made me feel a lot better.
139. **Ms Reid:** You were told that you would only have one go in the court. Who was saying that?
140. **Mrs John:** I was told that by Paul McConnell's boss. He said that if I did not get special measures and could not take the stand, that was it. My charges would be dismissed and would be thrown out of court. I was devastated. I thought that because I was not strong enough to take the stand, my uncle would be able to walk away.
141. **Ms Reid:** What was the other option? What were the special measures going to mean for you? What difference did the option of not being in the court mean for you?
142. **Mrs John:** I was always quite strong. However, with all the intimidation that I got, I knew that I could not do it. So, that is why the special measures helped.
143. **Ms Reid:** So, you were going to be in another room and there was going to be a video link to the court?
144. **Mrs John:** Yes.
145. **Ms Reid:** Did that work?
146. **Mrs John:** Yes. It was absolutely brilliant. It was really good.
147. **Ms Reid:** Good.
148. **Mrs John:** It was also arranged that I could come in by a back entrance and did not have to be in any of the rooms that they would be in. It became, for him, a family day out. I did not have to see any of that. I was brought in by the back entrance, which was good.
149. **Ms Reid:** So, what was it like coming in the back way?
150. **Mrs John:** It was easier than facing the mob at the front. So Paul, or whoever, would come down to bring me in the back way.

151. **Ms Reid:** Will you talk us through that? Can you help us see what you saw on your first day?
152. **Mrs John:** I had to come in through the big black gate at the back. The first day was terrifying. The supergrass trial was on, so it was chaos. I was with my mother, who is very dramatic. Going through it was quite frightening, but we got used to it. We knew after that to come straight through the gate and wait, and witness service would come down. So, after a couple of days, we were quite happy to go in and out that way.
153. **Ms Reid:** So, you came into the court and then where did you go?
154. **Mrs John:** We went up through court 11 and into witness service. We stayed there all day. Then, we were taken out in the evening the same way.
155. **Ms Reid:** Emily, can you remember the first day?
156. **Ms Rankin:** I remember every day of it. I have no memory of anything in my life except things to do with the court. That is it. I have no memory of what happened yesterday but I can remember the court. We were on at the same time as the supergrass trial. It was a bit daunting, walking in on that first day, because there were so many armed police around the front and so many supporters of the people who were in court. There were armed police on the fourth floor as well. There was a big crowd milling around. You were in court 11, Rhonda; they were in court 12, and we were in court 13, so we were all beside one another.
157. **Mrs John:** Yes. That is right.
158. **Ms Rankin:** It was a bit daunting at the beginning. The courts were locked until the trial. We went in and, as I said to somebody, the only exercise that we got during the whole trial was walking up and down the 92 stairs to the fourth floor. We are a big family and we supported one another a lot. There were about 40 to 50 of us, and the court only had 50 places so that was a good idea. There were 40 to 50 of our family there every day, so everyone supported each other and we formed a big group. However, we had to stand outside.
159. Rhonda said, in passing, about having to be taken in by the back entrance because of the nature of the case. There is a total lack of privacy for victims and their families. People were being briefed in the corridor; everybody was talking about things there. There was a lack of resources. There was a lack of space to get away and to escape when we were dealing with very emotional stuff.
160. When we went into the court, the police were there, but this was the fourth of fifth time that we had been to the start of the trial, if you know what I mean. That was our first time in Laganside as we had been at Craigavon before that. We had gotten used to it because we had gone to court all the time. We had been in courts 11 and 12. We had never been in court 13 but we had been in the other two quite a lot and that was really helpful to us.
161. Victim services showed us round Armagh Court. We were supposed to be at Armagh Court but our case was moved because the Jennifer Cardy case was scheduled to be heard there at the same time. We went in and sat there one day when it was empty. That was helpful because the surroundings are intimidating but if you get used to them, you can concentrate on what is going on. That was OK.
162. **Ms Reid:** You mentioned lack of privacy. How did that work out on a day-to-day basis?
163. **Ms Rankin:** In the early days, we had 17 months in the Magistrate's Court. We had four or five months in Newry and then the case was moved to Belfast. The barristers were assigned at the end of the process in the Magistrate's Court. Looking back, we did not fully realise how the process works. We know that, in the Magistrate's Court, the duty prosecutor will have a list of 40 cases that he will rattle through not knowing one case from the other. That was very frustrating for us.

164. However, when the case got to the preliminary enquiry (PE) stage and then to arraignment stage, barristers were assigned and the prosecution took a more focused look. At that point, the barrister came out and asked for the Rankin family. He said that he wanted to talk to the Rankin family, and we were standing in the corridor with 30 people around. The barrister briefed the family on very sensitive issues, and the family — and anyone else who happened to join in — was listening to that briefing. Anybody walking past could hear.
165. All the time we were there, all through the court process, the defendant was sitting among us, right up until the trial. She sat beside us in the court, and outside the court, she walked into Laganside staring us down, so that kind of lack of separation —
166. **Mrs McElkearney:** She followed us into the toilet.
167. **Ms Rankin:** Oh, yes, that was a good one.
168. **Mrs McElkearney:** It was playing games, really.
169. **Ms Rankin:** We found the lack of separation between the defendant and the victims or family of the victims quite difficult. When the defendant was being briefed, she was taken into a consultation room, but family were being briefed in the corridors. We complained about it. We insisted on getting somewhere private, but that was not the norm. Barristers talked to family or victims in the corridor outside the court, if they talked at all.
170. **Mrs McElkearney:** That was a concession to us because we were told at one stage that the senior counsel does not speak to the family or relatives. We said that we would not accept that, and they said that that was fair enough, so we were introduced and briefed after that, but only because we insisted and we would not accept what we were told.
171. **Ms Reid:** Rhonda, did you have any experience of a lack of privacy in your process?
172. **Mrs John:** I did not find that so much, but my three sisters did. It got to the stage where they had to come back into the witness room, and I think that Paul was asked to escort them outside because of intimidation from the family. They found that really bad. I had to get the police because when I came out the back way, the family made a direct route for me and we had to hide in a cafe. I had a non-molestation order taken out against this person, so that helped, but there was a lack of privacy. It was not too bad for me because I was in the witness room, but when my sisters were talking to people, it was more or less outside.
173. **Ms Rankin:** I think that there is an imbalance of resources. The defendant has rights, and that is how it should be. The defendant has a right to a fair trial, and I am fully in favour of the rights of defendants, but that should not entirely exclude some rights for victims and the families of victims. That is really important. It is not an either/or, it is a both.
174. **Ms Reid:** You mentioned the preliminary enquiry. What was that like?
175. **Mrs McElkearney:** It was like everything else; it did not follow the normal pattern. We went on the day that the PE was supposed to take place and just before we went into court, we were told that it would not be happening and that there would be a preliminary investigation (PI). We had been talking to our friend, the criminal lawyer, who had said that there was a very slight chance that there would be a PI. Of course, it never happens that there is a PI — but, it happened. It happened literally as we were walking into the Magistrates' Court: someone came over and whispered to us that there would be a PI.
176. **Ms Reid:** What difference did that make to the process?
177. **Ms Rankin:** It delayed it. We were given another date for the PI. Every time we went to court prepared for what was going to happen, something different

- happened. We were never told because, apparently, the defence never does anything until the very last minute. If something has to be submitted on a particular day, it is done at 4.30 pm at the close of business. If it has to be in by the next morning, it will be submitted at 9.00 am that morning. We found that sort of tactic very frustrating, and it happened consistently throughout the case. We went in prepared for the PI; we got ourselves all psyched up. They were going to call the pathologist, which was quite daunting for us. We read the pathology report because we persuaded them to let us read it.
178. **Mrs McElkearney:** We were not going to get access to that either but we said that we did not want to hear it for the first time sitting in a public court — we needed to be prepared. They gave in and gave the report to us.
179. **Ms Rankin:** We went in expecting them to call witnesses, and we were told on our way into court that she had changed her legal team again. The new legal team, which had been changed that morning, said that they did not want a PI and that they would have a PE instead, which was the normal way to proceed. We went to the PE — to the arraignment. It was as though we were being battered down by all the tactics.
180. **Ms Reid:** We joked on the way over that you are experts on the system, which you clearly are. Would you like to help us to understand the difference between a PE and a PI?
181. **Ms Rankin:** When a case goes to the Magistrates' Court, the magistrate will say, at some point, that there is a case to be answered. There is an arraignment and the person is charged. He or she pleads, and the case goes to the Crown Court.
182. I am not exactly sure what happens in the case of a PI. At a PI, the magistrate says that he needs to look further into the matter. The defendant can ask for a PI and can ask for some of the evidence to be presented in open court. That would not normally happen because the Magistrates' Court cannot deal with a murder case. At that point, we were not having bails; no bails were coming up and there was an argument that there was no case to answer. At that point, the defence was trying to prevent the case going to the Crown Court by saying that there was no bail.
183. **Mrs McElkearney:** It was a waste of time and everybody knew it. It was a tactic and it was a waste of funds, of our time and everybody's time. Obviously, there had been a murder and there was a case to answer. It was ridiculous.
184. **Ms Rankin:** I understand that, in England, for example, a case would go straight from the Magistrates' Court to the Crown Court on the same day. There is a very striking parallel with the Joanna Yeates case. Her body was found on Christmas Day 2010. Mummy's body was found on Christmas Day 2008, two years earlier. Both murderers were sentenced to exactly the same sentence on the same day — 28 October 2011. In England, it took 10 months, but in Northern Ireland, it took two years and 10 months. In our case, the murderer was arrested less than two days after the body was found. In Joanna Yeates's case, it was later than that. So, the time had nothing to do with the investigation: it was to do with the process.
185. **Ms Reid:** I told you that you were experts. I heard people describe the preliminary inquiry as almost like a trial within a trial. Have you had that experience, Rhonda?
186. **Mrs John:** Not really. At that time, we had Paul on our case. We were not kept up to date with anything, so we were not told anything. We knew absolutely nothing.
187. **Ms Rankin:** Am I right in thinking that that is the case?
188. **Mrs McElkearney:** Yes. It is like a mini-trial. The defence says there is no solid case against its client, and the prosecution has to prove that there is. At that stage, however, there are not even barristers appointed by the prosecution side. They are only just

- about to come on board. So, it is the duty prosecutor who has the files and is flicking through them.
189. **Ms Rankin:** He asks: "What is the cause of death? What is the woman's name?" It is very frustrating.
190. **Mrs McElkearney:** They then have to prove that there is a case to answer, so they have to present a certain amount of evidence. So, it is like a mini-trial. They have expert witnesses, not any of the family witnesses. It would be for a pathologist to speak about the injuries. At one stage, the question was asked as to whether a murder had been committed. Those were the sorts of questions. It was for the pathologist to say that the injuries were consistent with a violent attack and not a fall.
191. **Ms Reid:** They do not have PIs in England and Wales any more, do they?
192. **Ms Rankin:** I do not think so.
193. **Ms Reid:** It is just here.
194. **Ms Rankin:** They do not have them very often here either, I think. It is just another stunt.
195. **Ms Reid:** I am guessing that this will be a big issue, but was there anything you wanted to know but could not get an answer to? That might be the title of your story. What jumps into your mind in response to that question?
196. **Mrs John:** We just wanted to know what was happening along the way. We never got any replies. We phoned and left messages but nobody got back to us. We were told absolutely nothing the whole way through. We got to the stage that when we did phone to ask the person in charge of our case, he could not be bothered to listen to us, saying that he was busy and would get back to us, but he never returned any calls.
197. When we found out about the witness service, they did help us to find out what was happening in court, and we knew a bit more. However, we then started to know a bit more and when we phoned the police officer in charge, he knew that we had a bit of information, so he had to tell us more than we already knew. At times, however, I was telling him when the court cases were happening, and people were stopping me in the street and telling me. That was not very good.
198. **Ms Rankin:** Lack of communication was the big thing. As Mairead said, a family friend gave us the list of the processes at the beginning. That was really helpful and should be given to everybody involved in a case.
199. As our case involved the murder of an elderly woman, and everyone has a granny or a mummy, I think that we got a lot of sympathy from the people involved. Maybe we were pushing at a slightly more open door but we needed to keep at it. If we had taken advice in the early days, we would not have gone along. We were told to put the case to the back of our minds. Nobody can put a serious crime to the back of their mind.
200. **Mrs McElkearney:** Another choice quote was: "Do not to get hung up on the legal processes." That is what we were hearing all the time.
201. **Ms Rankin:** We were told not to go to court because we would not understand it. That is insulting.
202. **Ms Reid:** You told me a lovely story about the comparison with the 11-plus.
203. **Ms Rankin:** I do not know how public I should be. There are no names attached, but we were told by a person involved:  
*"Don't be worrying about the legal process. Leave it to us. When I was doing the 11-plus, it took over my life, but after I did it, I just had to walk away and leave it until the results came out. That is how you should treat the case."*
204. That was so insulting.
205. **Mrs McElkearney:** In his eyes, our mother's murder was the same as doing the 11-plus. It was just ridiculous at every turn. Initially, we found that we could not get any information. Karen Walsh and her two barristers were in court for every appearance. We went in, and the duty barrister for the Public Prosecution Service (PPS) was a



- different person every time. There was nobody to contact.
206. The police said that they had written up the case, that everything was in there, that there was nothing more to do and that they were ready to go court with it. They said it was in the hands of the PPS but that nobody in the PPS was taking responsibility for it; it just sat there and got taken out every three weeks in the Magistrate's Court. At that stage, we were asking whether anybody was taking it seriously and whether anybody was doing anything. That went on for 17 months.
207. Then, there was the arraignment, after which the barristers were appointed. At that point, we thought that there was somebody to talk to, so we made connections with the barristers. However, they really did not want to know: they said that it was not their role and that they did not communicate with the family. We see now that it actually was not their role in the earlier stages. However, it was somebody's job, and nobody told us.
208. What we did not know was that behind the scenes, there was the equivalent of a solicitor on the defence side putting the case together for the PPS. Once we found out who that was, made the contact and talked to that person, we built up a really good relationship. We were able to phone her, and she phoned us and kept us informed of anything that was happening. Knowing that somebody was doing something settled us and made us feel like the case was being taken seriously. However, every time we contacted her, she said that she was doing us a favour. She did meet us; we went to the prosecution offices and she met us quite a few times and kept us up to date. She was really nice but she said that her bosses were not happy, that what she was doing was not the norm, and things such as that. However, we needed that service.
209. **Ms Rankin:** The point that we are making about the need for a liaison at the very beginning is that there is an absolute gap in provision. When we got to the end of the process and looked back on how the prosecution did its job, we had no criticism of the prosecution apart from its communication. They did a good job in this case and they were working away, but we did not know that. So, we were flailing about during the most emotional time of our lives. We are not the people we were three years ago. What happened has fundamentally altered all our lives.
210. Fortunately, there was an outcome in our case. We might not have felt this way had we not got the outcome but we can look back, understand and recognise that people were doing us a favour. It is just that there is a gap: there needs to be someone who explains why something is being done a certain way.
211. You asked about witnesses. All family members gave witness statements lasting hours and hours, and then they were called in court. People were very apprehensive; they did not know what they were going to be asked. It was three years since they had talked to the police, and everybody was very worried. We asked about that and were told: "We don't coach witnesses". That was it.
212. **Mrs McElkerny:** They took an achieving best evidence (ABE) statement, which is massive and takes you through a whole wandering thing. They say that they will call you to the witness box to ask you about things but they do not tell you what those things are beforehand. They said that they would give us our statements on the morning that we took the stand. However, the first day of the case moved more quickly than expected and my sister Brenda, who was in the house, got called and never got to look at her statement. She made that statement on St Stephen's Day 2008 and she took the stand on 14 September 2011. She did not have a clue about what she had said. She had talked about the neighbours and the family; she had done a three- or four-hour video interview, which would have involved a lot of writing to transcribe. She had no idea what she would be asked about, and they gave her no indication.

213. The same thing happened with me. I had given a statement two months after the murder. My statement was part of the second group of statements, so it was not to do with the actual event; it was to do with mummy's medical condition. Again, it was a long three-hour statement on video. I was asking myself what I had said. All I got from them was:
- "Just answer honestly."*
214. We listened to witnesses who were not prepared. You can see why they do not tell you what they are going to ask you: they do not want you to rattle things off as though you had learned them. They want you to tell things honestly and as you remember them. It was just that no one explained that properly either. I was frantic before I went on as I did not know what I would be asked.
215. I was told that I would be on at such and such a time, but the next minute, I am sitting in the public gallery and they call me. I did not think that I would be on until the next day. It is a very weird experience. You feel very vulnerable and out of your depth. It is a very strange experience.
216. **Ms Rankin:** We understood the process after the event. When people were anxious and asked for advice, they should not have been told:
- "We do not coach witnesses; end of story." People should have been told: "It is better if you just answer the questions."*
217. **Mrs McElkearney:** They should have been told: "we will direct you and keep you right." The prosecution asked you things and guided you along, and you knew what they wanted. It was not a big, wide interview. They focused in on things, and you were able to answer them. I just felt before I got up that I had no idea. I did not know whether I would be able to answer and I worried that I would not be able to remember.
218. **Ms Reid:** It sounds like the outcome could have been as effective with a lot less anxiety for you.
219. **Mrs McElkearney:** It would have been better if someone had explained.
220. **Ms Rankin:** It is this business of the communication gap. You need reassurance and to know the details. You need to be kept informed if you want to be informed. I imagine that some people do not want to know but most people would probably want to know. You have a right to that. You are a key person in the trial: either you are the victim or the family of the victim. It is important that the system includes you.
221. **Ms Reid:** Rhonda, does that resonate with you?
222. **Mrs John:** I went through something similar. I would also like to say that I find it very strange that my uncle was driving about, doing anything that he wanted and going where he wanted. My sister did a lot of power walking. She was walking along a country road and had her child in the pram, and he went so close to her that she had to go up the embankment. We phoned the police officer in charge and asked about his bail conditions. We were told: "I do not exactly know. I will get back to you." We still do not know. It is such a breakdown. It could have made things a lot easier if things had been explained a lot more.
223. **Ms Reid:** It is also that things are not joined up. Information comes in bits and is not passed along.
224. May I ask you about victim impact statements? Did anyone talk to you about the process for giving a victim impact statement?
225. **Ms Rankin:** We submitted victim impact statements. The judge embarrassed the hell out of us by saying that they were very long and carefully constructed victim impact statements. It was very difficult. We wanted to do it because, in all that time, it was the first chance that we had to tell our story. We were totally constrained all the time that the trial was going on. We could not say anything to anyone, as we were terrified that we would prejudice the outcome of the case. We were warned not to say anything. Therefore, we had a pent-up need to talk.



226. The police did the victim impact statements with us. We had not realised that that would be the case. We initially thought that we would write the statements ourselves. Anyway, in the end, the police did them with us in what was like a police interview. The statements were very long and very detailed.
227. It was a necessary process but it threw us right back to the beginning. In doing the statements, we had to relive the event almost. We had been dealing with a process, and mummy's murder had almost got lost. In fact, mummy had been completely lost in the process until we went to trial. You remembered when family members started talking about it. It was the Crown v the defendant, and the victim does not even feature in the name. Mummy's name was never mentioned.
228. However, when we got to the victim impact statements, we were thrown back —
229. **Mrs McElkearney:** The police sat down with me one time and asked me to go back to Christmas Day and tell them how I felt. That was the first time that anybody had asked how I felt. You get caught up in the legal process and you focus on the process and not the actual event. You sort of tuck that away, and through the victim impact statement, you have to relive the horror. It was difficult to do that, but they did go through it meticulously and record everything. It was very much like giving a statement.
230. **Ms Reid:** What was explained to you about who else would have access to that statement?
231. **Mrs McElkearney:** We researched everything. We had been on the internet and had read judgements from cases in which the judge had quoted from statements. So, we knew that bits of it could be used by the judge, and we said that there were certain sensitive things that we did not want recorded in the public domain. However, we had prepared ourselves.
232. **Ms Rankin:** We were surprised to hear that the first place that the statements went to was the defendant's team. That took us by surprise because apparently they go through the statements to black out anything that might be prejudicial to their client.
233. **Mrs McElkearney:** They can censor our statements.
234. **Ms Rankin:** We found that quite shocking, but it was a good process.
235. **Mrs McElkearney:** If you say anything and they do not like it, they will censor it, and statements go to the judge with blanked-out bits. It was just like sending letters during the war. That was quite strange.
236. **Ms Rankin:** We found that strange. We knew that we could make them because we kept being told that we would have our say when we made our victim impact statements. It was a bit daunting to be told that the first people to see the statements would be the defence team, but we did make them anyway.
237. **Mrs John:** So, a victim impact statement is not really worth the paper that it is written on?
238. **Ms Rankin:** No, it is very important.
239. **Mrs McElkearney:** They carry a lot of weight.
240. **Mrs John:** It is just anything that you want to say and they do not want it to go across —
241. **Mrs McElkearney:** No, they cannot take stuff out willy-nilly, but if you say anything derogatory about the accused — she is not the accused any more — they can block those types of things.
242. **Ms Rankin:** They are looking at the impact on you. They are not looking for you to say what you think about the person who committed the crime.
243. **Mrs McElkearney:** They can censor it to a degree, but you still get your say, and from what we heard, the judges apparently take the censoring into consideration. It is the only time that you get to tell your story.

244. **Mrs John:** I have not done mine yet but my three sisters have done theirs. They found it horrendous but they had to go through everything.
245. **Mrs McElkerney:** It is difficult.
246. **Ms Rankin:** It is very hard, but I think that it is worth doing.
247. **Mrs McElkerney:** It is very difficult because it is very emotional, and you have to open up and go back to everything. Whereas you can talk like this about the things surrounding the case, your victim impact statement has to be on the nitty-gritty of what happened. That exposes you and leaves you upset.
248. **Ms Rankin:** We had to deal with crying police officers as well.
249. **Ms Reid:** The police officer got upset?
250. **Ms Rankin:** The police officers were very upset.
251. **Ms Reid:** Just for the record, in Northern Ireland at the minute, although work is in progress, there are no guidelines on how a victim impact statement should be processed and structured. That is separate from the victim impact report, in which a psychiatrist or psychotherapist prepares an assessment. It sounds as though you have experienced the system trying to make do and mend without having proper —
252. **Mrs McElkerney:** We had been told that we would write a statement. We asked whether we would do that as a family or as individuals, and we had different answers throughout the time. We had been making occasional notes here and there, and the next thing was that we were told that we would be doing our victim impact statements, starting with you, and then you, and that was it. It was each of us individually and a police officer for a full day of recording. There are eight of us.
253. **Ms Rankin:** It took a week and a half.
254. **Ms Reid:** Goodness. What information did you and your sisters receive about how the statements would be used in the decision-making process? Was that clear?
255. **Ms Rankin:** We knew that the statements would go to the judge and that he would look at them as part of the package of items that he considers before sentencing. As you said, the judge can get probation reports, psychiatric reports, etc. We were told that he would read the impact statements as part of that package. The judge has sentencing guidelines, at least in murder anyway. I do not know about other cases; we have confined ourselves to the murder case. There are sentencing guidelines about where to start, and there are mitigating circumstances and aggravating circumstances. The judge, in making a decision on sentencing, can take such things into consideration. He certainly quoted extensively from them in his sentencing report.
256. **Mrs McElkerney:** He quoted a line or two from every single one of our statements. He went right through them all.
257. **Ms Reid:** How did it feel to hear that?
258. **Mrs McElkerney:** It was good.
259. **Ms Rankin:** It was good to know that somebody took notice without us battering down the door.
260. **Mrs McElkerney:** We trailed in and out of court endlessly. We sat in the public gallery and it all played out in front of us. We walked out again and we wondered whether anybody even knew that we were there or that we existed. We just sat there, time after time, wanting to say that we could tell the court the details. When they were talking around the subject, I just thought that they should ask me. After all, I know what was in the room. I know what it looked like.
261. **Ms Rankin:** We learned to sit very still and very quiet.
262. **Mrs McElkerney:** It is court etiquette.
263. **Ms Rankin:** You do not show any emotion; you do not move.

264. **Mrs McElkernay:** You have to switch off your mobile phone. You do not cough. You do not ever look at the defendant. You do not write notes.
265. **Ms Rankin:** One thing that we were told is that you do not write notes. The press are busy scribbling away, but you are not allowed to write notes. We found that quite strange.
266. **Ms Reid:** What about you, Rhonda? Do you know what information your sisters got about how their victim impact statements could be used?
267. **Mrs John:** A new officer called Sylvia took over our case, and she was absolutely fantastic. She kept them completely up to date, so they knew exactly what was happening. I was not part of that bit. I did not really want to know.
268. **Mrs McElkernay:** It seems to be very much hit and miss. It seems to be down to individuals. If you happen to get somebody who is sympathetic and good, you will get the information.
269. **Mrs John:** Yes.
270. **Mrs McElkernay:** It is very much hit and miss. Information is not freely available. You have to dig for it and build up the lines of communication.
271. **Mrs John:** The officer was absolutely brilliant but she came in at a later stage. We were almost getting our court date, which we found very frightening. We were thinking that she would not know everything that had happened to us and that it would not work. As soon as we met her, we were put at ease. She did more for us than Paul did over the years. Unfortunately, we have to go back to court, and Paul has come back off the sick. We do not know how it will go.
272. **Ms Rankin:** Make sure that they tell you. You know now; you have the experience. As you go through the process, it is completely alien to you. It is a world that you have never had anything to do with. You learn, and you come out the other end. Everything is new, and you feel that so many simple things could ease people's passage through the process.
273. **Mrs McElkernay:** That is why we feel that we have gained so much knowledge of the whole thing, and it is really good to get an opportunity to pass that on. We would love to be able to use the knowledge that we have gained to help other people. It is simple; it is not rocket science. Very simple things would make life so much easier for people. Just having a link would be a big start.
274. **Ms Reid:** Did you receive any support along the journey, outside your families and friends?
275. **Mrs John:** No. I received support only from the witness service. I definitely did not receive support from anywhere else.
276. **Mrs McElkernay:** Some of our family got counselling. I was attending hospital at the time because I was sick, and the hospital organised that for me. My employer organised for a couple of people and a short series of six counselling sessions.
277. **Ms Reid:** So, no one asked how you were doing as a result of your involvement in the criminal justice system? You said that no one asked you how you felt until you were doing the victim impact statements.
278. **Ms Rankin:** That is another gap, because we are all affected quite seriously. We are suffering from the effects of prolonged and severe stress. This means that you cannot work properly and you do not function. As I said, I can talk forever about the legal process but ask me what I had for breakfast and I cannot remember. I cannot plan and I cannot make decisions. There are a whole lot of quite standard effects from prolonged stress. Individuals have sought help and have had to get assistance. We are lucky in that we have a big family and have supported each other. When one was down, they could be propped up by the rest. These things have very long-term consequences.
279. **Mrs McElkernay:** As there are so many of us, we are suffering the same types of problems with memory, concentration and decision-making. We know that that

- is normal and that it is a process that you go through.
280. **Ms Rankin:** We know that we are not mad.
281. **Mrs McElkearney:** If there were not six of us phoning each other every night saying that we have had a horrible day at work and cannot think, we really would think that we were going mad. I told my counsellor that I felt that I was losing the plot. He said that he could lift down any book and it would say that that was normal for someone with stress.
282. **Ms Rankin:** For example, you cannot cry over the big things but you will fall apart over dropping something. It is like everything in your life is out of place.
283. **Mrs McElkearney:** Initially, my employers were very understanding and accommodating but the length of the process became a problem. I am a nurse and I am not working in my role. I have not done a day's clinical work since it happened. I am doing administration and bits and pieces of research. I cannot take responsibility for a patient. I assume that I will start to unscramble my brain and get back there, but my employers have run out of patience. I am feeling a bit of pressure at work. They are paying me as a nurse and I am not fulfilling that role.
284. **Ms Reid:** It makes you realise the ripple effect.
285. **Mrs McElkearney:** It is huge. At the start of the process, I thought that it would last for a couple of months. Then it was six months, a year, and then two years. It is now nearly three years, and I am still bogged down in this limbo where I cannot move on. Maybe, we can start to move on now because we have had the trial and a satisfactory outcome.
286. **Ms Rankin:** We do not know what is happening with the appeal. No one is telling us because we do not have links in that department. No one bothers. People find out for us, and something appears in the papers, so journalists know about it.
287. **Mrs McElkearney:** We were told on the QT that the appeal had been lodged and not to let on that we had been told that. Yet, last night, it appeared in the 'Belfast Telegraph'.
288. **Ms Rankin:** We are back to square one because we have moved to a different section. We have not yet got a name or a phone number, and that is another learning curve.
289. **Ms Reid:** Rhonda, have you been through the process of a hearing and a sentence? Have you got to that stage in your journey?
290. **Mrs John:** No, we have not got to that stage yet. Have we?
291. **Mr Nolan:** Yes, you have. Rhonda's case is quite complex. There are four injured parties and 13 charges. Two of the charges received a not guilty verdict by direction. There have been seven guilty verdicts, and the other four charges resulted in a hung jury and will be retried.
292. **Ms Reid:** The question that I was going to ask sort of answers itself. It is this: did you understand the sentence when it was given? Do you want to add anything?
293. **Mrs John:** No, I do not think that I could.
294. **Ms Reid:** What about the others?
295. **Ms Rankin:** Ours is very straightforward.
296. **Mrs McElkearney:** We had read the sentencing guidelines. The judge's sentencing statement was comprehensive. He was very good and made sure that we got a copy of it immediately. The police got a summary and we got the detailed copy.
297. **Ms Rankin:** That was really good, although I completely fell apart after the sentencing. Until then, I had held it together.
298. **Ms Reid:** You talked about that journey and about having your life on hold all that time. What did it feel like to get to that point? People who have not

- experienced that often look in and think that that must be the end.
299. **Ms Rankin:** No, it is the beginning of the unravelling. We could not believe the guilty verdict. Your rational mind says that the jury has returned in a very short time and could not possibly give a not guilty verdict because they would have had to argue about that. You hope and hope but are still afraid to hope. The guilty verdict is given, and then you are away again for another month. We came back to what we were expecting to be a sentencing hearing, but it was another delay, of course, which is normal.
300. Everybody came over again on the Tuesday and had to go away again and come back on the Friday. The judge did the sentencing report on the Friday. We listened, and it was a long sentence. We were very pleased about that. I then came out of court and completely fell apart. I started to cry. I had not been crying; I had held things together mostly very well but I cried and cried and then I had to go to talk to the press.
301. The press were very good to us. Walking in front of cameras all the time was very daunting. At one stage, we came out and the cameras were there and we walked the other way, but they just followed and got us anyway. We did that for a little while and then we just walked up to them. However, the press in general were very good. If anything, we were terrified and did not say anything to anybody. We tried to be ready for all eventualities after the verdict and had several statements prepared. We did not want to get caught out because we did not know how emotional we would be.
302. We read a statement for the press. The police press officer, Ken, asked us whether we wanted to take any questions, and we said no. The press were really good: we read our statement and they left us alone. After sentencing, they did ask some questions but they were not terribly intrusive. There was then a five-day blitz when we were reeling with shock. However, we figured that we had better talk because if we did not do so, they would print it anyway.
- We found that that happened, because some magazines printed their versions of the story. We refused to speak to magazines. We drew the line and said that we would deal with news but not entertainment, but some magazines printed stories anyway. We talked because we thought that if we said it, we would be telling it as it was.
303. We did that for about a week and then said that we wanted privacy after the sentencing, and they did not bother us again. That was really good. We were really shown respect by the press.
304. **Mrs McElkerney:** When it comes to the press, that is one thing that is better in Northern Ireland.
305. **Ms Rankin:** It would be horrible if you were in England.
306. **Ms Reid:** Did you have that experience with the press, Rhonda?
307. **Mrs John:** I did not really see anything of the press, but my sisters said that the police press officer was absolutely brilliant. He did not fail us in any way. I did not see him, which was quite good.
308. **Ms Reid:** Did anyone talk to you about criminal injury compensation?
309. **Mrs John:** The new officer, Sylvia, told us where we could find out about that but we have not done that yet.
310. **Mrs McElkerney:** We filled in forms with Victim Support in Newry perhaps a month later.
311. **Ms Rankin:** They filled in the forms for us, because we did not know what we were doing.
312. **Mrs McElkerney:** There have been times when we had several letters with forms that were difficult to fill in. The forms are more for victims, but we are the family of a victim.
313. **Ms Rankin:** We did not fit the forms. We filled them in, but I did not think that they were very relevant to us, to be honest. More recently, they have sent out forms —



314. **Ms Reid:** — that are more relevant to some of the families.
315. **Mrs McElkearney:** I filled in one of those forms.
316. **Ms Rankin:** Victim Support approached us about that, which was helpful. During the process, when you get a letter — any letter — you do not know whether to open it. If my bills had not been paid by direct debit, I could be in the horrors at this stage. When you open a letter, you cannot process it, because stress takes away your ability to process difficult information or to fill in forms. It is almost impossible, and that is when you need help. Every time I got a letter from Victim Support, it worried me. I would put it away and read it a month later, and it would say that it had to be returned two weeks' previously. I am not like that; I am always so organised. You are a changed person when you are in this kind of environment. That is when you need someone who can help.
317. **Ms Reid:** The criminal injury compensation process is ruled by deadlines. There is the two-year deadline —
318. **Ms Rankin:** That is why she put the forms in for us; that was good.
319. **Ms Reid:** I am conscious that we are still working you hard. We will have a break soon. I want to ask you about your post-trial experience. Has anyone talked to you about, for example, the prisoner release information scheme or how to find out whether someone has been released?
320. **Mrs McElkearney:** They gave us our forms on the day that she was convicted.
321. **Ms Rankin:** That was the most efficient part of the process. We got a letter back to say that we were being considered, checked out or something like that. I do not know what that is exactly. That was something that we did not know about and did not ask for.
322. **Ms Reid:** That is really telling. Due to data protection, the police hold the contact details of the victims of crime. When people such as you have got to the stage in the process that you have reached, a complex list of permissions have to be gained before you can be offered the opportunity to register for information on prisoner release. If the prison information scheme does not have permission to contact you, you will not be contacted.
323. One point that I was trying to allude to earlier was about the cost of the system at present. The police generate approximately 2,000 letters every year to try to get information out to people such as you. As you described so powerfully, you are getting that information at a time in your life when you do not want to know or hear any more questions or think about any more registers to be on. It is no wonder that only one in four people who have experienced the sort of crime that you have experienced will sign up for the scheme.
324. It is an honour to be trusted by people such as you and to be allowed to offer the support that we do. In a quick straw poll that we conducted in our offices a couple of weeks ago, we discovered that each office had a live case involving someone who had phoned up distraught and upset because they had seen the person walking down the street and it was the first that they knew that the person had been released. We have this big, bureaucratic system that must be difficult to administer but it is not delivering what people such as you need.
325. **Ms Rankin:** That is why we need someone who could look after our interests and link with the various parts of the system. That would be really helpful.
326. **Ms Reid:** That brings me to my last two questions. I am sorry; you must feel as if you have been interviewed. You have all got the job, by the way, anytime.
327. **Mrs McElkearney:** We know the topic.
328. **Ms Rankin:** It is the only thing that we know anything about.
329. **Ms Reid:** To summarise, you have painted a fantastically colourful and vivid picture of your experience. We have

- probably touched on this point already, but what do you think would have made a difference to you?
330. **Mrs John:** I think, having someone there from start to finish, and who you could connect with when things went wrong. I had so many things happen at my house, even after I moved twice. Every time I phoned the police, a different officer came out to me. In the end, I felt that what I was saying was going over their heads, because there were so many things happening. If I had someone I could relate to and tell what happened, they could forward that information to the person who needs to be contacted. It would mean that I would be kept informed about what is happening and where the complaints are going.
331. The police have apologised to me for not doing anything, but it is too late. They should have addressed the problems at the time. As you said, having someone there who you could phone and talk to would make the process so much better.
332. **Mrs McElkearney:** We had a very good experience with the police, but the liaison officer was not available. There was a gap there, which we bypassed by contacting the police who were working on the case directly. They gave us their numbers. There needs to be someone who liaises with the family, especially when it comes to the legal process, and links into the PPS. That is where the gap is. There is nobody to tell you how the system works.
333. **Ms Rankin:** The PPS is where we identify the gap. As Mairead said, we had a good experience with the police giving us information. However, that may have been due to the nature of the case. The big gap that we identified was in the PPS and in the fact that there does not seem to be anybody in the organisation who has responsibility for that kind of liaison. It does not have to be a solicitor or a police person —
334. **Mrs McElkearney:** It would be better if they were.
335. **Ms Rankin:** It probably would be better. It has to be an informed person who knows the process and has a right to link into those bodies and has the right to information.
336. **Mrs McElkearney:** Our police liaison officer was not told anything. In the end, we spoke to the police who were involved in the investigation. Everybody bypassed him, including us in the end, because we were getting no satisfaction.
337. **Ms Rankin:** That is not to say that he was not a very helpful person.
338. **Mrs McElkearney:** He was lovely but he just did not have the clout. Nobody listened to him.
339. It is probably better if that person is not a member of the police because the police are not acceptable to everybody. Our experiences were good, but in other cases, the police do not engage as well. What we need is somebody who can make the link between them and us.
340. **Ms Rankin:** It might cost money to provide that but it would probably save money on all the phone calls that Duncan answered. We were regularly writing letters to the PPS: I looked at my computer and saw some of the letters that I sent to the PPS. When things got really bad, we got the family together, wrote down our problems and sent them off to the PPS. We had continual correspondence with the PPS.
341. **Mrs McElkearney:** We wrote to everybody until we found out who was dealing with the case, which was kept secret for nearly two years. Until we made that link in the PPS, we wrote letters to the southern area director, etc, and copied others in on them.
342. **Ms Rankin:** In the end, it was easier to talk to us than to not; that was the bottom line.
343. **Ms Reid:** Is there anything else that you want to see changed?
344. **Mrs John:** I felt like a victim all over again. I never got any support when I wanted support. We have been through more than half of the trial. We have three weeks in which we have to go into court, which has nothing to do



- with the Crown Court case. We feel like victims again because there are 42 non-molestation orders, half of which are against me and my sister. Some of them are against my sister in England. There are orders against me for looking at the man when he was in the same street as me. My sister lives in England and does not know the aunts who have taken the orders against her. To me, that is a big waste of money and time.
345. I want someone who I am able to talk to, instead of running up and down to Belfast to the solicitors to fill in forms. If I had somebody to talk to, there probably would not be half of those molestation orders floating about.
346. I feel that victims are not supported, but abusers are. I feel that abusers have more rights than victims. As a result of those orders, he decides when we have to go to court, and it is as though he is still controlling us.
347. **Ms Reid:** Coffee and tea are available, and you probably need a break. I want to thank you very much for your assistance today. Paul, do you want to say a few words on behalf of the Committee about the ladies' participation this afternoon?
348. **The Chairperson:** I want to thank you all very much. What we heard today was powerful, and it vindicates the Committee's decision to conduct an inquiry into this issue. Something needs to be done. However, you do not want to hear platitudes from us; you want change. I thank you for telling us about your experiences. I also thank you for your evidence, which will, no doubt, play a key role in the Committee's deliberations. Thank you very much indeed; I mean that sincerely.
349. **Ms Reid:** The ladies have agreed to come back if the Committee would like to have a more involved discussion. However, equally, I am sure that they could do with escaping. Will that put the Committee under pressure? Do you want the ladies to participate in the next part of the discussion? Do you want to inquire, or would you be happy to continue your discussions with the staff from Victim Support? It is up to you.
350. **The Chairperson:** Are you happy for us to ask a few questions on some issues that we would like to touch on?
351. **Mrs McElkerney:** Yes.
352. **Ms Rankin:** Yes.
353. **The Chairperson:** If you do not want to stay, you do not need to.
354. **Mrs McElkerney:** No; it is fine.
355. **The Chairperson:** There are a couple of things that I would like to tease out, and then, if you want, you can leave, and we can continue the discussion with the staff from Victim Support.
356. I am curious about your comment about court etiquette and the reference that you cannot do certain things in court. What did you mean when you said that the judge had:  
*"embarrassed the hell out of us",*  
when he made his commentary on your victim impact statement?
357. **Mrs McElkerney:** No; he was lovely.
358. **Ms Rankin:** No.
359. **Mrs McElkerney:** He was brilliant. We were led to believe that he was going to do the appearance and the sentencing on the same day, because we knew that the barrister was going away and would not be there on the Friday. However, when the judge got the information, he went through the — I am sorry; what way did he do it again?
360. **Ms Rankin:** He got the defence information and ours.
361. **Mrs McElkerney:** Yes, and he then said that he would not be sentencing that day and that he wanted to go away and consider those long and —
362. **Ms Rankin:** — carefully constructed statements, and we were kind of cringing. When we said that he embarrassed the hell out of us, it was not meant in that context.

363. **The Chairperson:** I was just trying to clarify your experience of the judge.
364. **Ms Rankin:** The judge took us very seriously.
365. **Mrs McElkearney:** He got to know us and he mentioned us all. We never met him and he never spoke to us, but I think that he could pick us all out by the end of the trial.
366. On the issue of court etiquette, we were coming out of court in Newry during one of the early hearings — it was one of the very first ones — and we came out across the courtyard, through the exit, turned left, and Karen Walsh and her solicitor were ahead of us. The car park was on one side of the street and her solicitor's office was on the other. We arrived back in the house and the phone rang. It was the inspector involved in the case, and he told us that Karen Walsh's solicitor had phoned the police to say that we were intimidating his client because we were walking too closely behind her and had followed her out of court. It was that sort of thing. Every time we went to court, she stared at us. She also played games with us by getting in our way or sitting in the seat beside us in the public gallery of the court. She was always kind of taunting us and looking at us. We were warned that we should not make eye contact with her or give her any reason. We were told that we could jeopardise the case, and that we had to be poker-faced, had to sit there and dare not show any emotion.
367. We were told by the Public Prosecution Service that if we heard certain things during the trial that upset us, we should leave the court. We were told that we should not be in the public gallery as we might distract the jury. If we were hearing things that were really bad, and the jury looked over and saw tears in our eyes, they would think — “God help them” — and would not be able to focus on the case.
368. When we were told that, we could see that it was a good reason, but before that, we were told to just sit there and not show any emotion. You began to think: “she can do what she wants; we are not the ones on trial”, but you definitely feel that you are the ones on trial and you are very exposed.
369. **Ms Reid:** There is a definite sense of etiquette in relation to what can and cannot be done in a courtroom. Perhaps you would like to contribute at this point, Alban. In one way, it is entirely appropriate, because we want it to be a very serious and grave process but —
370. **Mrs McElkearney:** At one stage, I said that it was like a game of chess. They know the moves and they know the two sides. It is ridiculous.
371. **Ms Rankin:** In a lot of cases, understanding why something is happening is the key point. If you understand why they have to do things such as saying that there is important information that the jury has to hear and there is no point in distracting them, you can understand that and you will behave. We said to the extended family that it was going to be a very difficult morning and that if they could not bear it, they should stay out. I am fully in favour of the rights of the defendant, but there are no rights for the victim or victim's family. That is the imbalance.
372. **Ms Reid:** Would you like to take a comfort break?
373. **Mr A Maginness:** I just want to ask a couple of questions. It was two years from the date of the murder to the date of the trial: is that right?
374. **Ms Rankin:** It was two years and 10 months.
375. **Mr A Maginness:** So, it was the best part of three years. The Joanna Yeates case took 10 months. If there had been a similar period for you, would that have made a big difference?
376. **Mrs McElkearney:** It would have made a huge difference.
377. **Ms Rankin:** It would not have screwed up all our jobs. People have gone into retirement, and there was loss of earnings and that kind of thing involved.

- We managed to get through the first 18 months because our employers accommodated us. You do need a certain amount of time; there is no doubt about it. If it had been a year, or even a year and a half, we could have coped with that, but it was prolonged.
378. **Mr A Maginness:** It is an intensely stressful period over those three years.
379. **Ms Rankin:** She was allowed to change her legal team four times.
380. **Mr A Maginness:** And that caused a lot of delay.
381. **Mrs McElkearney:** That almost put it back to the start every time: a new team and a new approach.
382. **Ms Rankin:** It was all on legal aid.
383. **Mr A Maginness:** You said that the prosecution barrister did not want to talk to you because he or she did not see that as their job. Did they say that to you?
384. **Mrs McElkearney:** He did not, but one of the others said that senior counsel does not speak to relatives and victims. That was actually said to us.
385. **Mr A Maginness:** But, did he say that?
386. **Mrs McElkearney:** No; he did speak to us.
387. **Mr A Maginness:** Did you think that he was representing you in the same way that the defence counsel was representing the accused?
388. **Mrs McElkearney:** No. We were never under any illusion about that because we were told repeatedly from day one that it really had nothing to do with us and we did not feature because it was a state prosecution.
389. **Mr A Maginness:** Do you accept that? That is the theory, anyway.
390. **Mrs McElkearney:** We accept that, but people cannot be excluded. We were told that we did not have to be in court but we could not be at work not knowing what was going on. If your mother has been murdered, you have to know what is happening.
391. **Mr A Maginness:** Do you accept the basic principle that the prosecution represents the state, not you, but not to the point of excluding you?
392. **Mrs McElkearney:** Yes.
393. **Mr Dickson:** Can I develop that a little further with you? I thank both of you for sharing very intimate and difficult stories with us and the reality of where you have been.
394. Following on from the point that Alban made: the Crown does not represent you, it represents the state. Did either of you feel as though — or become aware of another victim who felt that — the system was so stacked against them, potentially against getting the case to a prosecution trial at all, that as the trial progressed, there was need for personal legal representation? I heard you say that you had a friend with legal qualifications who gave you some pointers but did either of you feel the need to get your own legal representation?
395. **Mrs McElkearney:** We were not trying to tell them how to run the case. All we wanted was for them to tell us that they were doing something. We sat there and wondered whether anyone was doing anything and whether they even knew mum's name. That was another thing —
396. **Mr Dickson:** Had you reached the stage whereby you felt that you needed to influence the process through legal intervention?
397. **Ms Rankin:** No, not really, but I think that it was due to the nature of our case. In another case, people could have felt that they needed legal representation. We were quite removed from the murder.
398. **Mrs John:** We contacted a solicitor who told us that we did not need representation because the PPS was taking the case to court, which meant that a solicitor could not do anything. If we wanted to run things past them, that was fine, but we were told that we would have to speak to our officer, who was not giving us any information anyway.

399. **Mr Dickson:** I will share another case but not in this forum.
400. **Mr McCartney:** I add my thanks. I do not think that you have wasted a word in what you have said today. We have been here for over an hour and a half, and we have taken evidence sessions where some of us run out of steam. It was really insightful.
401. Throughout the session, each time one of the three of you spoke, it was about a lack: a lack of communication, lack of explanation, lack of liaison, and the fact that the process did not include you. I do not like trying to sum up, but you have been making a very strong case for someone to liaise in the process in a structured way. I can see that that would be the case. How would you feel, on reflection, if a liaison officer had been appointed and advised you that attending the Magistrate's Court possibly was of no consequence? Would it be good to advise someone not to go to the Magistrate's Court every week to see a case listed and to watch a duty prosecutor, through no fault of their own, just see it as another one of the 40 cases in which someone is remanded, month after month?
402. **Mrs McElkearney:** If you do not go, you do not know what is happening.
403. **Ms Rankin:** I think that you are saying that we would have the information.
404. **Mr McCartney:** Yes. I am saying that if a liaison officer —
405. **Ms Rankin:** If you had the information, you might not feel the need to go all the time. We definitely needed to have some people there. We did not all go all the time, but some members of our family did go. If you had proper information and confidence that you were getting the right information, you would not necessarily need to attend all the time, and you could put it to the side.
406. I do not think that a case such as ours should be at the Magistrate's Court in the first place. That is part of the problem. A Magistrate's Court cannot do anything with a serious case; all it does is keep adjourning it. To me, that is a complete waste of resources. She had two barristers in the Magistrate's Court every time.
407. **Mr McCartney:** I think that there is a legal requirement that you have to be remanded every month or every 28 days. I have a technical question about the sentencing guidelines: is that standard practice? Do all victims' families get them?
408. **Ms Rankin:** We did not get them. We looked them up on the internet.
409. **Mrs McElkearney:** You do not get them.
410. **Ms Rankin:** The internet is a very good resource.
411. **Mr Weir:** I have a comment, rather than a question. This is probably one of the most useful evidence sessions I have heard in my time at the Assembly; it has had great depth. I think that it will be very informative to our inquiry.
412. A lot of the focus is on the lack of communication and information, but I was also struck by what you said about the process and the levels of undue delay compared with the Joanna Yeates case, which you mentioned. I know, for example, that we need to look at the issue from the point of view of process. To be fair to the Minister, he is trying to cut out a range of unnecessary stuff with regard to PEs and PIs. I think that there is a strong case for going further. I know from one of the questions that I have asked that the relevance of having data on PIs or PEs seems to be very limited. Out of the past 8,000 cases with a PE or PI, only eight did not have prima facie evidence. Given that that is the way that things have been done, an additional delay, on anyone's side, does not help. From a victim's point of view, it clearly does not help. If someone were wrongly accused, it delays the case. We need to think much more radically than we have done in the past.
413. I do not really have a question. I just want to thank all the witnesses. It was a very clear, useful evidence session, based on real life experience.

414. **Ms J McCann:** Thank you very much. That was very helpful, and your comments were very honest and sincere.
415. I would like to ask Rhonda a question. Previously, I have worked with people who have taken cases such as yours. I know Sylvia, and I can understand where you are coming from. You can connect with someone, and Sylvia is very good at what she does. You said that communication and bail conditions were two of the main issues while waiting for a case to come to trial. We also get this in local communities. Bail conditions are not known. People can be walking down the street and come face to face with someone in such a situation, which is particularly difficult in cases such as yours.
416. You spoke about back-up help and support in the community. Some community organisations offer support to victims, and other community organisations offer support in cases of sexual abuse and that type of crime. Is there any liaison between the people who dealt with your case and such organisations? Did they signpost you to organisations in the local community, such as women's organisations or those that look after families that have been affected by crime? Did you find anyone to signpost you to those types of organisation?
417. **Mrs John:** The only person who gave me any advice was the doctor, but at that time — it was the Nexus Institute — I was not ready for it. My sister went, and they told her that they could not carry on with her case because she was too emotional, so it was not something that —
418. **Ms J McCann:** The gap as well.
419. **Mrs John:** I was not ready to cope with that at that time. I am still not ready.
420. **Ms Reid:** Chair, could I pick up on that point? It absolutely perfectly touches on another example of the issue of data protection. So many possibilities and so many elements of what is needed are there, but the connections and the wherewithal to offer them to people at the right time, in a language that is accessible to them, are not. Timing is probably the key point that I want to bring out, which is the very point that you are exploring in this question.
421. Victim Support's vision is that it is a doorway into all the services. We have worked hard to develop a service directory that we want to keep up to date, and it lists all the available services. We have worked very hard to try to be clear about our limitations, what we can offer directly, such as the witness service, the work that we do on criminal injury compensation and the emotional support that we offer. However, we are not therapists: we are very clear about that. We try to inform people that we are in contact with what is there, whether that be the Nexus Institute, Cruse Bereavement Care or, in other cases, it might be the Northern Ireland Council for Ethnic Minorities or other organisations. We have contact with Women's Aid, and our service is about networking and informing people. The key barrier is that when someone reports a crime, one of the questions that the officer has to deal with, amid a sea of forms to be filled out of I do not know how many pages, is permission to give that individual's contact details to us so that we can reach out to them. The problem with the interpretation of data protection is that we end up with a form of wording whereby a person is asked a question to give permission at a time when it does not take much analysis to figure out that one more question is the last thing that they need.
422. Of the 107,000 instances of reported crime, 37,000 or 40,000 come as referrals into the organisation. Are people making truly informed decisions or does having to give permission at that point act as a barrier to those people getting more information later on? My argument is that that is a barrier because, before the current system, there was, for a time, a system whereby all people were offered the service and if they did not actively opt out within five days, we got the information. Human beings tend to err on the side of



- inactivity, which meant that we had the opportunity to reach out to many more people who had experienced crime and offer them the service.
423. Victim Support is not arguing against the principles of data protection, but that has to be weighed against giving people proper information at a time when they are ready to be able to process it and make an informed decision as opposed to a tick-box exercise that might mean that the majority of people lose out on a very valuable resource.
424. **Mrs McElkearney:** We were not contacted, and we did not have any link to Victim Support. I remember Brenda saying last year that her laptop was nicked out of the boot of the car, and Victim Support was on to her in a couple of days. We missed that.
425. **Ms Reid:** I should have explained that: trust you to pick out the detail that I missed. You know my job better than I do. The exception to our protocol with the PSNI is that we do not get cases of serious crime such as domestic violence, sexual violence or murder/ manslaughter. Those need express permission, but you still should have been offered that.
426. **Mrs McElkearney:** We were told that the PSNI has packs but had run out of them. Pam Surphlis from Support after Murder and Manslaughter (SAMM) got in touch with us directly because somebody whom she knew knew a member of our family.
427. **Ms Rankin:** SAMM is a very under-resourced group, but she was good to talk to.
428. **Mrs McElkearney:** She was great, and we were able to phone her and make contact. She was really good. She found a way to get to us through a friend. At this stage, most people in the country know one of us. She made contact with us, but we did not get a pack.
429. **Ms Reid:** Written information absolutely has its place; I am not knocking that. However, my argument is that, perhaps, there is an over-reliance in criminal justice for another leaflet or pack, and you have demonstrated far better than I ever could why face-to-face communication is needed. You need that rapport and you need to be able to understand and travel with the person to make the judgement about when and how you get the information. Putting something in the post is not the answer to everything. It is important — I am not knocking it — but it is not the answer to everything.
430. **The Chairperson:** You touched on having rights and the need for a liaison officer. When you say that a victim or the family of a victim need to have rights, do you mean that you need to have rights to access information and, as opposed to someone just telling us, that person needs to be empowered to make sure that they get the information.
431. **Mrs McElkearney:** Yes.
432. **Mr Lynch:** I agree with what Peter said. It has been very valuable. We are used to listening to officials and civil servants, but it has been brilliant to hear from laypeople. The system needs to be inclusive. Some of us still have elderly parents. What happened to you, a normal family, must have been horrific.
433. **Mr A Maginness:** What effect would it have had on you if you had not had the opportunity to make a victim impact statement to the court?
434. **Ms Rankin:** It would have been difficult. In a way, the victim impact statement channelled us. Knowing that we would be able to make that statement kept us on board because we had been flailing about. The lawyers were flapping about with their wigs and gowns, walking in and out of court and basically playing about with our lives. We were so frustrated and we could not say anything. We felt that no one was listening to us but we were told that we would get a chance to have an input. The victim impact statement was beneficial. It may have had an impact on the judge, but it was beneficial for us to have a say. It is the only tiny bit in which you have any role in the process. I do

- not even know whether you have a right to a victim impact statement.
435. **Mr A Maginness:** I am not sure.
436. **Ms Rankin:** I do not think that you have.
437. **Mrs McElkearney:** You do not have a right to be asked. The judge has to invite you to make a statement.
438. **Mr A Maginness:** You said that part of it was redacted.
439. **Ms Rankin:** It could have been; we do not know. We were told that if we said anything that might be considered prejudicial, defamatory or critical of the defendant, the defence had a right to remove it.
440. **Mr A Maginness:** You did not see the final stage?
441. **Ms Rankin:** No, we did not see the final bit.
442. **Mr A Maginness:** It would be very interesting to find out what was blanked out.
443. **Ms Rankin:** We constructed our statements in such a way that we did not take her under our notice.
444. **Mrs McElkearney:** The police kept us right, and we did not say anything about the defendant.
445. **Ms Rankin:** We said how it affected us, not what we think of her or what she did. The statement was focused entirely on us. That was the only bit of the trial that was focused on us.
446. **Mrs McElkearney:** We heard on the news about a family in Dublin who did victim impact statements and went to town in attacking the criminal.
447. **Ms Rankin:** They made what were considered to be racist comments against the convicted person, and the judge decided that he had to withdraw and not sentence; he sentenced in the end. We were very conscious that we did not want to do anything to prejudice the case. We spent three years doing nothing — not moving, not cheeping, not doing anything that might prejudice the case in any way. Rhonda, you said that you felt like you were on trial; we did, too.
448. **Mrs John:** My sister lives in Ballyclare, and she cannot take her son to school because of the restriction rules. They have it that I cannot go to Ballyclare to visit my sister, and I live in Carrick. She cannot go to Ballyclare to do her shopping or to drop off her son. If she wants to go to the bottom of Ballyclare, she has to go out round the countryside. She does not bother with anyone. They know what her route has been for the past 30 years for taking her children to school, and so on.
449. **Ms Rankin:** You are in a big conflict; we were saved that.
450. **Mrs McElkearney:** We had nothing like that. The person who committed the murder had no links to the area; she had no family there apart from her husband. We were not even exposed to that situation in court. Once the trial started, the only person sitting in the public gallery with us was her husband, a lonely character. We were spared that. We talked to other people who had to sit among relatives of the accused; that would be a nightmare.
451. **Mrs John:** I drive a bright yellow Beetle, so it did not help the situation. *[Laughter.]* When I went into Ballyclare, as soon as they saw the yellow Beetle, they knew where I was and whom I was with, and the car would be circled. I would then drive my husband's car; they did not know it, so that was fine. Of course, they got to know that car, so I would borrow a car. I just thought that it got to be ridiculous and that it was better not to bother. I cannot shop in Asda.
452. **Ms Rankin:** My attitude is that the legal process greatly exacerbated the effects of the murder. We wanted to go through that process and we are glad that we did, but I imagine that you feel the same.
453. **Mrs John:** If I had to start it all over again, I would not do it.
454. **Ms Rankin:** That is not right. It is not right that your wish for some sort of



justice is undermined by the process that you have to go through.

455. **The Chairperson:** We will take a break. Rhonda, Emily and Mairead, thank you very much for what you have been able to provide us with today. We will start again at 4.20 pm.

*The meeting was suspended from 4.08 pm to 4.14 pm.*

456. **The Chairperson:** Thank you all for coming back. At this point, Susan will highlight the key recommendations that Victim Support submitted as part of the inquiry. There will then be a chance for questions.
457. **Ms Reid:** Thank you very much for your attention. I draw your attention to a paper in your pack entitled 'Summary Paper of Key Themes'. I appreciate the time and concentration given this afternoon. The first point that I want to draw out is that as charities/voluntary organisations, Victim Support and the NSPCC have a place on the Victim Witness Steering Group. We have been participating in developing the themes for the next strategy.
458. In my summary paper, I have attempted to repeat what I understand you were given by Department of Justice officials in a briefing paper. I am not planning to go through the points line by line. However, I want to add to or elaborate on certain points that we will submit to that process and that we will simultaneously raise with you in your evidence-gathering process.
459. The first point comes under "Communicating better with victims and witnesses". There are points that we would want to add to what has already been suggested. First, we really want to make the case that the system must work towards a point at which each criminal justice agency or organisation is held to account for delivering continuing improvement in the treatment and experience of victims and witnesses. The comparison that I would draw is with health, where, under clinical governance, one key aspect of the process is a system of customer feedback, which

is seen as being critical to judging the effectiveness of the system. It does not take a very in-depth analysis of the system to uncover the fact that different organisations or agencies, to differing degrees, take feedback from victims and witnesses. However, there is no end-to-end process to capture the experience in any systematic way, never mind the depth in which the experience has been shared with you this afternoon. Our contention is that that is absolutely key and must be a continuous process.

460. The second point is that awareness of the impact of crime and the needs of victims and witnesses need to be a requirement in the continued development of all professionals working in the criminal justice system. I do not think that I need to elaborate on the fact that we have had that demonstrated to us here this afternoon. There is lack of awareness and understanding across the different professionals within the system. We are arguing that, at different levels, everybody who works in the criminal justice system should have a base level of awareness about the impact of crime. We do not have time this afternoon to get into the psychological, emotional, physical and financial aspects, although we did hear about some of the financial issues. There should be different levels of training, but the key point is that it should be part of continuous professional development. It should not be a course that happens once in a blue moon or because somebody has a particular interest or there has been a particular incident. It must be standardised and systematically required.
461. The third point is that information provision to victims should be reviewed to ensure that data protection policies are not a barrier to informing decision-making on the part of the victim. I have already made the point about the prisoner release information scheme. In the margins of the meeting, I made the point that, in England and Wales, it is a statutory requirement that victim

- support be offered to victims of crime. That is not the case in Northern Ireland.
462. The fourth point is that online and other social media communication with victims and witnesses should be developed. This is particularly pertinent when you look at the demography of crime with respect to the pattern of young men, particularly aged 17 to 24, as victims of violent crime. I do not think that we need to think too deeply about the preferred medium of communication for many young people in Northern Ireland today.
463. In the area of providing additional support for victims and witnesses who need it, we have five points that we want to add to the desired outcomes that have already been highlighted in the work to date on the strategy. Emotional support for children should be further developed. Victims and witnesses should be provided with support and information, from reporting the crime to disposal, including needs and issues outside the criminal justice system, based on individual need. The second point is really our attempt to summarise much of what we have heard here today: an end-to-end process that does not stop at the end of the trial process. There is a journey and a need for support and information that goes beyond that.
464. The next point is that the experiences of victims and witnesses should be continuously monitored and collated and be integrated into key performance measures for each organisation. The challenge that we would make to evidence that point is: how much does the victim's experience actually matter to the individual organisations and agencies in the criminal justice system?
465. We would like to see an evidence-based approach used to develop changes to the systems to improve responsiveness to the needs of victims and witnesses. We would like to see a service-based approach adopted by organisations and agencies, with clarity of standards provided, while protecting the public. I will come back to that in my last point.
466. Under the heading of "Participating in proceedings", a key point to add to what has been developed so far is that victims and witnesses should be assisted to understand the decision-making processes throughout the criminal justice system. I think that that says it all, really. I do not know whether I can think of a way to expand on that. It respects the intelligence and dignity of people who have been harmed by crime. They have a fundamental right to be able to understand what is happening and to understand how decisions are being made as the process proceeds.
467. Under the heading "Improving public understanding of the criminal justice system", there is a real need — and it is for us to make the case — for continued development of outreach and communication to counter public cynicism regarding crime statistics. There is research and evidence showing that the public just do not believe a lot of the information that is put out. That is a very good argument for why further work needs to be done there.
468. In conclusion, the points that can be pulled out as strategic themes are as follows: delay, communication about case progression with the victim, the need for timely and effective support, and the lack of communication across the criminal justice system. A key point is that — and although I appreciate the need for it — independence should not be used as an argument for separate approaches. All those are core themes. None of them is new, but rather than dismissing them because they are not new, the challenge relates to why they are still so evident in the criminal justice system in Northern Ireland. Victim Support wants to acknowledge the work that has been done across the system in the past couple of years but we want to seek assurance that there will be continuous development and that the view is not — as I used the quote earlier — that we have "done" victims and witnesses, and that that is an end to it.
469. Overall, we will try to identify two key aims or goals that would create a journey of change and challenge to the

systems across the criminal justice system. The first is that we would like to see a shift to a focus on ameliorating the effect of the crime and not just securing the person who has been harmed by the crime as a witness to the process. The second point is that we would like to see a shift from a system to a service. To that end, I want to quote Keir Starmer, head of the Crown Prosecution Service in England and Wales, who captured the point when he said:

*"A system can all too easily become process-driven. A service is about standards and should focus on protecting the public by dealing efficiently and effectively with criminal conduct while respecting and protecting the human rights of all concerned."*

470. As we heard this afternoon, there is a sense — and we in Victim Support are already hearing such reasoning from agencies and organisations — that people would like to do something but they cannot because of funding or resources. My final point is that rather than accepting the argument that reduced funding might be a reason not to do better for victims and witnesses, it may very well be a reason why we can do better. If more attention is paid to the systems and how things are organised across agencies and organisations, I contend that we might be more aware of where there is a lot of waste and where systems are being funded and resourced yet are failing to deliver the information and answers that people, quite reasonably, want.
471. If we looked at the systems through the eyes of the people who have experienced crime, we might very quickly have large clues as to how things could be re-organised in a win-win way, which would meet the needs of people who have been harmed by crime and might actually save the system some money as well.
472. **The Chairperson:** Thank you very much, Susan. I thank Victim Support for what has been done today. I know that we are going to have more evidence sessions as the inquiry goes on, and Victim Support is going to play a role in that. I suspect that we will invite

the organisation to a formal session in Stormont. That is not to say that members should not ask anything now — feel free to do that — but we will have Susan and Victim Support in front of us again.

473. Does anyone want to ask some questions about what they have heard? I will start with one. You commented on looking at the efficiency of the system. Can I take that to mean the administration of all the different parts of the criminal justice system? If you had a way of scrutinising the work of the whole system, it would reveal where improvements could be made. I take it that that does not happen at the moment. There may be scrutiny of an individual organisation, but you need some mechanism to assess how the organisations are linking or not linking, as the case may be.
474. **Ms Reid:** Organisations tend to organise themselves from the inside out. This is not particular to the criminal justice system, and we in Victim Support also hold our hands up to doing that. We recently started a process of looking at ourselves from the outside in. By logging, verbatim, what people ask us to do, we have learned the difference between an approach that you might call a value demand, in which the person comes to you for something that you are designed to deliver, versus a failure demand, in which a person comes to you because of something that you have not got right. We have found that very illuminating. It has raised our awareness of what we need to change about how we organise ourselves, because we are not, in any way, perfection personified. We have also, as a by-product, picked up systems failures from other parts of the criminal justice system, and much of what we get are requests and queries, because people, as you heard today, are so frustrated. They cannot get the answers that they need, they cannot contact the person who they have been told has the information that they need, and the person whom they have contacted does not have that information.

475. At a very basic level, that is the argument that I would present. If we start to follow things through, and use things such as process mapping or adopt a systems-thinking approach, we will very quickly start to see where services have been organised in a way that misses the point. We will also see that they probably cost more and do not meet the needs of the people whom they have been set up to help.
476. A lot of work has been done in that area. Advice NI used a similar approach and that threw up issues around housing associations and services. The contention is that we can learn from that and that we might discover that there are more efficient ways of organising things that better meet the needs of victims and witnesses.
477. **Mr A Maginness:** You talked about the statutory duty in Britain to refer to Victim Support. That duty is not in law here.
478. **Ms Reid:** No.
479. **Mr A Maginness:** Would you like to see that in law here?
480. **Ms Reid:** The short answer is yes. However, if there are other ways that would meet the same end in creating a more efficient and effective way of getting the contact details of the individual who has been harmed by crime, we should use those. The goal is to get that timely and appropriate response, and from what I understand, that statutory duty is one very effective way of meeting that goal.
481. **Mr A Maginness:** In your experience, do victims appreciate Victim Support, or do people say:  
*“Thank you very much, but I do not require your services”?*
482. **Ms Reid:** We have both. We would never contend that we should be the preferred alternative when victims of crime have adequate support systems within their family or friends. We would not want to damage that relationship or rapport in any shape or form. However, because of the psychological impact of crime — particularly in cases of domestic and sexual violence, in which there is a lot of potential to self-blame and to be embarrassed — there is a strong argument that talking to someone that the victim does not know is a positive thing. There are people who, for many reasons, including the ones that I have touched on, would say: “No, thank you.” However, there are others who would say: “No thank you, not now.” Those are the people whom we lose, because we do not have the resources to follow them through or to check in with them in a couple of weeks or months to see whether they are OK.
483. Our annual survey of those who take up our service shows approval rates of 90%-plus across the witness service, the criminal injuries compensation service and the community service, which provides emotional support. I am not naive enough to think that customer satisfaction is the be all and end all, but it is a comforting indication that we are meeting the need. We are also very conscious of other needs that we are not resourced to meet but would like to meet.
484. **Mr A Maginness:** Thank you very much.
485. **Mr McCartney:** I have an observation for the Committee as we progress with our inquiry. It would be useful to have a list of what is expected from each organisation. We should find out the requirements. We are saying that things should be better and be improved, but whatever the role of the police liaison officer, and Emily and Mairead talked about it, it is not as though they are not doing the job asked of them. However, if they are a barrier to providing information, we have to assess that. The same goes for the PPS and the Court Service. If we have an idea of the statutory requirements as the inquiry progresses, it will give us a better understanding.
486. **Ms J McCann:** I am keen to know where the victim impact statement comes in here in the North. In the South, and I do not know if I am right, in most cases, family members have an opportunity to present the impact of the crime to the

- court, particularly in serious crimes such as murder. I do not think that that is the case here. Is that right? Can everybody who goes into a court here stand up to explain how the crime has impacted on them as a family member? I would like to know how often that happens. What is the statutory position at the moment? I hear what you are saying and I think that it could be something that could help families. Am I right?
487. **Mrs McElkearney:** In America, victims get the opportunity to stand up to say —
488. **Ms J McCann:** That is what I am talking about. I know that it happens in the South sometimes as well. Does it happen here at all?
489. **Ms Reid:** It happens, but there is no framework or guidelines on how it should be done. In some examples, as illustrated here today, it can be very in depth. For example, Emily and Mairead, a great amount of time went into your impact statement. I know that we have been involved in helping people in which one side of A4 paper has been written in court over a lunch break. There are no guidelines or frameworks as to what should go into such a statement or what areas should be covered.
490. There is no clarification about when a victim impact report is required rather than a victim impact statement. However, to be fair to the system, work is in hand, and a number of drafts of a paper have been done by the group in which we take part and which I referred to earlier — the Victim and Witness Steering Group. The plan is to consult on those guidelines in the near future. However, you are right, there is no clear guidance at the minute, and that leads to ad hoc practice.
491. **Ms McCann:** It would be useful to find out how it operates at the moment.
492. **The Chairperson:** Perhaps we could ask the Assembly's Research and Library Service to do a paper for us on impact statements.
493. **Ms Rankin:** I was going to do my impact statement myself, but the police officer who was taking my statement told me that there was not a format, but that they were working towards one. She wanted to talk about quite specific areas and it was much more in depth than I would have written. I would have written bullet points on one side of A4 paper, but she wanted much more detail on the emotional impact, and so forth.
494. **Ms Reid:** Did you feel that it concentrated on emotional, financial, psychological and physical impacts?
495. **Ms Rankin:** It was kind of like that. It had headings, and she said that it was fairly new. Whether it is something that they are trying out or that has been set, I do not know, but she said that it was fairly new and that statements had been done on a more ad hoc basis. Something is being worked on, but I do not know quite what.
496. **Ms Reid:** They have been around in England and Wales formally for five or six years, and there are aspects that I am sure the Committee would be interested in. One key issue, as I understand it, is the information given to victims about how their statements will be used. The issue is around getting clarity and proper information about how the statements will be used in decision-making and how they sit with sentencing guidelines. It is important to ensure that the person who is giving what is a very personal insight into the impact of a crime understands that the statement will be shared with the defence. They also need to know the possible risk and impact that that will have in some particular crimes. There is complexity around it, but that is all to be worked through in the definition of privacy.
497. **The Chairperson:** No one else has any questions. I thank everyone for coming along today, particularly the families and victims. It has been useful. Thank you, Susan, and thanks to Youth Justice for the use of their building.



## 8 December 2011

### Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)  
 Mr Raymond McCartney (Deputy Chairperson)  
 Mr Sydney Anderson  
 Mr Stewart Dickson  
 Mr Seán Lynch  
 Ms Jennifer McCann

### Witnesses:

Dr Michael Maguire *Criminal Justice*  
 Mr Derek Williamson *Inspection*

498. **The Chairperson:** I welcome Dr Maguire, the chief inspector, and Derek Williamson, who is an inspector. I hand over to you, Dr Maguire, to take us through your report.
499. **Dr Michael Maguire (Criminal Justice Inspection):** Thank you, Chairman. I aim to cover the main points of my report relatively quickly and to use the time that we have for questions, if members have any, on our work.
500. The starting point for the report is that the effective and appropriate treatment of victims, witnesses and their families presents enormous challenges for the justice system; issues include the human cost of crime and its impact. The range of problems can be very broad; support is often required from outside the justice system and may involve health and other organisations. Victims and witnesses need support to make a contribution to the investigation and prosecution of cases.
501. There is, however, a tension at the heart of the justice system. Our system of justice means that once an offence is reported to the police and referred to the Public Prosecution Service, decision making and the pursuit of a prosecution is taken out of the hands of the victim and placed in the hands of independent prosecutors. The matter then becomes an issue between the state and the defendant. That can explain why many victims feel on the periphery of the justice system and excluded from the administration of justice. It can also help to explain why victims often feel that the system spends more time thinking about the needs of defendants rather than those of victims.
502. It is an uncomfortable message that victims and witnesses cannot be put at the heart of the justice system. I will begin the discussion with some of the constraints. However, that is not to say that justice organisations do not have a desire to meet the needs of victims or have policies and procedures that are aimed at meeting those needs; it means that justice organisations must make an extra effort to help and support victims and witnesses as they progress through the justice system.
503. The purpose of the inspection was to consider the treatment of victims and witnesses by criminal justice organisations and to make appropriate recommendations to deliver an improved experience for those who come into contact with it through no fault of their own. The inspection report takes the reader through different justice organisations, from police through to prosecution in the courts. It is based on extensive interviews with staff, survey data, our own discussions with, and surveys of, victims, criminal justice system (CJS) documentation, case files and group discussions. We pulled together a range of information in carrying out the inspection.
504. The first question is about the scale of the problem. About 105,000 crimes were recorded by the PSNI, of which 32,000 were categorised as serious. Under-reporting of crime remains a problem, with an estimated 46% of crimes being reported to the police. The figures are unvalidated, but, from what we have seen, the court system deals with an estimated 10,000 witnesses



- per annum. The scale of the problem is quite big.
505. Measuring satisfaction with the justice system through surveys or responses to questions can be a blunt instrument. It can often depend on the outcome of individual cases: how you feel about the justice system can depend on whether you feel that justice was served according to the outcome. It can also vary between those who have been victims of volume crime and serious crime, and, indeed, even among different justice organisations. The view taken in the report is that a substantial minority — whether that is 25%, 30% or 40%, it is big — is dissatisfied with the service that they received from the criminal justice system.
506. The problems that we identified in the report are consistent; they have been raised as issues over several years across studies in diverse jurisdictions, including Northern Ireland. Victims say that they want a single point of contact and access to regular updates and information; they want speedy case progression, which means that the justice system needs to get to grips with the problems of avoidable delay; they want access, where required, to specialist support services; they want consistency of service across justice organisations and in the same organisation. They also want equal rights and status with others in the justice system. That is difficult.
507. In addition — we endorse these issues as important in the context of the work that we found — our inspection highlighted issues, including that the focus on victims and witnesses was often left to the determination of individuals and thus to significant variations. There was a greater need for emphasis on customer care and interpersonal skills across the justice bodies. Indeed, a more consistent approach was required. There were issues about lead responsibility for victims and witnesses between agencies. Communications with victims and witnesses often lacked empathy and was impersonal and clinical in approach. There was, at times, a lack of enthusiasm to communicate fully and openly.
508. The single and most unforgiving concern that inspectors heard was delay: the length of time that it took for a case to be heard in court had a major impact on victims, witnesses and their families. Disposals in adult magistrates' courts generally take twice as long as elsewhere; cases involving young people take even longer. Therefore there is a major impact on victims' and witnesses' experiences of the justice system.
509. The Criminal Justice Inspection also heard concerns about the impact of late guilty pleas on victims and witnesses. In particular, there were concerns about such pleas being used by defendants to play a waiting game to see whether witnesses had the stamina and determination to appear in court. Northern Ireland has the same number of guilty pleas as elsewhere in the UK; however, they appear to come much later in the process rather than on first appearance. That adds to the significant cost of the system overall and to the impact on individuals.
510. At an institutional level, there were problems with the overall governance of the delivery of victim and witness services and cross-departmental collaboration. I will be happy to say more about that in questions.
511. We understand the operational pressures on front-line police officers, for example, who deal with many calls of an evening; we also understand the pressures on the courts and on those delivering prosecution services. However, it is only by changing front-line behaviour that many of the issues relating to how individuals engage with the justice system will be addressed.
512. What is the solution? There is no easy fix. As our report shows, the justice organisations have worked hard to address many of the recommendations in our previous reports. We saw many examples of excellent practice across the justice organisations, and feedback

- from victims and witnesses on much of that practice was positive. However, as we have seen, many of the issues that affect victims' experiences of the justice system are outside the control of justice organisations. The problems identified in the inspection remain and cannot be seen to be intractable. They are not going to go away; they have to be dealt with if we are to improve the experience of victims and witnesses and how they engage with the justice system.
513. The Criminal Justice Inspection report makes six strategic recommendations. The first is to address the speed with which cases progress through the justice system. The time is right to start thinking about statutory time limits and statutory case progression in order to focus minds on reducing the amount of time it takes from charge through to disposal by a court. They need not be implemented immediately, but a date should be set. We should start preparing for such implementation, because that is about focus and preparing to make a difference.
514. Secondly, to facilitate improved communication and the targeting of resources, we recommend the establishment of witness care units for those who go to court. That would combine the resources of the police and PPS to deliver a more effective and focused service for witnesses. In effect, it would be a one-stop shop for those going to court to give evidence.
515. Thirdly, to ensure that the perspective of the victim and witness is heard in respective organisations, we recommend the creation of victims' champions who can bring a perspective to senior decision making. That group should report directly to the Minister on victims' and witnesses' issues. When decisions are being taken at a senior level in the justice organisations, it would be beneficial to have someone with a victims' perspective sitting at the table. That is what I mean by victims' champion.
516. Fourthly, we heard concerns about witness care units. There are weaknesses in what they do, but in order to broaden the range of support, we recommend that the Department of Justice further fund and develop victim advocacy services. That is particularly important for those who have difficulty in accessing criminal justice services or who need specialist assistance for reasons of vulnerability. At the minute, we are seeing a mixed bag. For example, some individuals engage their own legal counsel to engage with justice organisations. We are calling for a broader range of advocacy services, which can be supported through the voluntary community sector.
517. Finally, we recommend that all post-conviction information schemes under the supervision of the Probation Service be combined to avoid confusion and overlap between the work of prisons and probation and to provide economies of scale.
518. Those recommendations, along with other operational recommendations and suggestions for improvement, will not address entirely the issues and difficulties raised in the report. They are, however, an important step forward in improving performance. Victims and witnesses and their needs will not go away. Moving from a criminal justice system to a criminal justice service will provide an important litmus test for the success of devolution. I am happy to take questions.
519. **The Chairperson:** Thank you for your report; it is very well timed, considering our own inquiry. It gives an insight into the technical workings — or not — of the justice system that we would not be able to unearth otherwise. I have some questions, after which I will open the floor to members. You rank delay as the biggest issue and highest priority. Your report says that:
- "The listing and management of cases is a judicial function and remains within the control of the Judiciary.*
- As the Judiciary are independent, CJI has no statutory inspectorate responsibility."*

520. You may not be able to answer this question: have you ever been given a definition of judicial independence? What is its scope? As a layman, I struggle to understand how the administrative workings of the court system are something that you, as an inspector, have no role in.
521. **Dr Maguire:** I have not been given a written definition of judicial independence. I come across it when our reports are circulated to all stakeholders, including the judiciary. We get feedback from the judiciary saying that such and such is a judicial function and that you cannot talk about it. An example is listing, which we talked about in the delay report; we are excluded from commenting on issues to do with listing.
522. From what I understand, the definition is a broad one; it is probably best left to the Lord Chief Justice to determine rather than to me. As to how we have dealt with it or come across it, we have been told that it is basically whatever the judges tell us is a part of their decision-making process, and we are not allowed to look at it.
523. **The Chairperson:** How can listing and the pulling together of paperwork not be an area where you do not have a role? I was shocked to read in the report that:  
*"CJI has no statutory inspectorate responsibility."*
524. You cannot check on courts' administrative operation and say, "Here is a failing, and here is how you fix it." That is regarded as a judicial matter.
525. **Dr Maguire:** Our legislation prohibits us from looking at the judiciary. The administrative aspects of the courts are a grey area. We do look at the court system; at the moment we are working on the court estate. However, it is in aspects that cut across the judicial running of cases that we run up against judicial independence more acutely.
526. **Mr Derek Williamson (Criminal Justice Inspectorate):** It may be helpful if I clarify that a little. Part of our function allows us to look at the administrative listing, by which I mean Court Service officials' initial listing of a case. Once it becomes a judicial function and a judge puts his or her stamp on it, it becomes judicial and outwith our remit.
527. **The Chairperson:** We need a definition so that the Committee knows how to do its work. Delay is the big issue, and that is an important aspect of how courts function administratively. However, judges tell us that it is a challenge to their judicial independence. A definition would allow us to know what to do. If you do not have a remit in that, it is an issue that the Committee will want to look at. You may want to comment on introducing statutory time limits for various stages of the process, which is more specific than saying that a case needs to be dealt with within 12 months or two years. If the current definition of "judicial" is applied, you probably should not have recommended that there should be statutory time limits.
528. **Dr Maguire:** Do you expect me to answer that, Chairman?
529. **The Chairperson:** In the action plan, the Department states that this is an area that will be looked at, but it is more complex. Why have you recommended statutory limits in each of those phases?
530. **Dr Maguire:** We can make recommendations on legislation. This is about developing a framework within which delay takes place. The reason that we are talking about it is that two substantive pieces of work that we have done on delay in the justice system show that it is a significant issue in the administration of justice in Northern Ireland. This report shows that it has a major impact on victims and witnesses. One of the things that we can do to improve the experience, treatment and care of victims is to shorten the time that it takes for cases to progress through the system.
531. We have a choice. We can allow the system to deal with issues of delay organically in the hope that it will improve overall performance. Our experience, based on our last inspection in 2010, shows that performance

- improvement has not been substantial. Indeed, our 2010 report stated that there needed to be a step change on delay. I will give the Committee an update on that inspection in the next number of months so that we will be able to look at the current situation.
532. You are left with the question: if performance is not improving, what other options do we have? In our last two delay reports, we recommended the introduction of statutory time limits. The response was along the lines that we would see whether we improve performance before going down that route. We are now at a stage where we need to start thinking seriously about statutory time limits.
533. We have gone further on victims and witnesses. I will ask Derek to talk a bit more about statutory case progression because it is different and there is potential for confusion between the two. The reason that we have put this on the table now is that if we want to improve the experience of victims and witnesses and shorten the time, these are options that now need to be considered seriously.
534. I am not being critical, Chairman, but we run the risk of paralysis by analysis. I could give you a long list of reasons why something should not be done. We are now at a stage where we want to think seriously about putting that on the table as an option to work through the difficulties. If we are clear about where we want to go, we can help to address some of those issues as we move forward; that is the position that I have taken in the context of the report.
535. **Mr Williamson:** I will add to what Dr Maguire has said in the context of judicial independence. Statutory case management or statutory time limits are not necessarily a criticism of, or commentary on, the judicial function; it is more a commentary on how cases can be better prepared so that when they get to court they are ready for a judicial decision. The timescale can be shortened, and our discussions around case management can be directed towards that front-end process, which is before it gets to the court door.
536. There is a subtle difference between statutory time limits and statutory case management. It is sometimes hard even for me to assimilate what that actually means. As I see it, statutory case management is about the practical arrangements in a court. It means that the judge has, on a statutory basis, the backing of statute to tell the defence and the prosecution the issues at stake and what witnesses are required to ensure that a case is progressed without unnecessary delay. The time limits are more about the end-to-end process. If those two things are mutually supportive and go hand in hand, that can only be to the ultimate benefit of victims and witnesses and the entire criminal justice process in respect of delay.
537. **The Chairperson:** Community liaison teams do not operate in the Crown Court. Does that need to be addressed and those teams introduced?
538. **Mr Williamson:** Our report states that, on one hand, community liaison teams are a misnomer in that they perform in large measure the function that a witness care unit performs in England and Wales. We recommend that community liaison teams become the core of witness care units.
539. The fact that community liaison teams do not operate in the Crown Court is a significant impediment. There is a difference in that there are two process streams running, one in the magistrates' court, involving a community liaison team, and one in the Crown Court, where no team is involved. In the Crown Court it falls, in effect, to the Police Service to deliver witness care, updates and so on. The difficulty that I found in respect of inspection work here is that there is no structured process for that. Gaps were appearing in the system and in the process; hence we recommend witness care units, which should operate in both tiers — in the magistrates' court and in the Crown Court.

540. **The Chairperson:** What proportion of the 36% of victims who were unsatisfied were the victims of serious crime and what proportion were victims of minor crime? Can you draw a distinction between the victims in that 36%?
541. **Mr Williamson:** Unfortunately, we cannot say with any degree of certainty. The Northern Ireland victims and witnesses survey (NIVAWS) does not deal with serious crime; therefore it is difficult to make that distinction. That was why, in part, in our field and survey work we vigorously pursued victims of serious crime; we wanted to hear a different perspective on serious crime.
542. Even having heard all that evidence, it would be very difficult to put your finger on a percentage. In essence, it depends on several factors, not least of which are who the police officer is who deals with your case, who the prosecutor is, who the Crown counsel prosecuting your case is and who the other individuals in the criminal justice system who deal with your case are. That is what Dr Maguire referred to at the start: there is no consistency of process. Therefore, it would be very difficult to put a specific figure on that.
543. **The Chairperson:** Finally, you highlighted the fact that there are gaps in responsibility and accountability in the Public Prosecution Service for victims and witnesses. Can you elaborate on where exactly those gaps are in the PPS? Who is the victims' champion in it?
544. **Mr Williamson:** I will take the last part of your question first. During fieldwork, we found that the criminal justice system as a whole has only one victims' champion, who is designated by the Criminal Justice Board. At the time of the fieldwork, that happened to be a senior police officer, and none of the other justice organisations had a designated victims' champion. That is why we made that recommendation: so that the care and treatment of victims becomes embedded in each of the justice organisations and that, indeed, individual agency victims' champions, when appointed, can report to the Criminal Justice Board victims' champion. That will give greater consistency, and, as Dr Maguire said, this is about ensuring that the needs and concerns of victims and witnesses are heard at senior level.
545. **The Chairperson:** Now that you have done your report and the Department has responded to the detailed direction plan, I note there is one recommendation that it does not accept. Will the Department's response on how it will take this forward be the solution?
546. **Dr Maguire:** There are criteria that we look for in an action plan to assess its completeness. My starting point is that action plans are a critical dimension in taking our reports to the next stage of implementation because they should set out clearly detail not only on the letter of what we are saying but on the spirit of what our recommendation is about and is trying to achieve. First, we ask whether the objectives are SMART — specific, measurable, achievable, realistic, timely. Secondly, are they intended, as they are articulated, to deliver the spirit of what our recommendations are about?
547. Looking at the Department's response, not all its objectives are SMART. For some of the recommendations, in some of the actions that the Department put forward, it seems to be evaluating and reviewing the recommendation, although it has already accepted it. Therefore, I query the extent to which some of the actions that have been put forward will deliver not only to the letter but to the spirit of what we intend in the various recommendations.
548. I do not want to come back in a year or 18 months with a follow-up review that details that we have not made the progress that we want. This is a critical issue for the justice system.
549. Getting a tight action plan that clearly sets out a response to the recommendations is important. That is why, in relation to statutory case management and time limits and so on, it is a complex issue. However, nothing



- in here gives me any sense of when that complexity will be worked through and when a decision will be taken. We want decisions to be taken, and, therefore, further work could be done on improving the focus of some of the responses to our recommendations.
550. **The Chairperson:** Let me get this right: your view is that the Department's action plan has accepted almost everything that you said, and having accepted it you would expect to hear the detail of how the Department will implement it. Instead, you have had an analysis, review and evaluation of how you came to your recommendations.
551. **Dr Maguire:** No. One of the operational recommendations is that the police engage in post-foundation training. The police will evaluate and discuss the recommendation, and I would have expected to see a suggestion that, by x date, they will have implemented a programme on post-foundation training. If you accept the recommendation, you accept the recommendation; if you do not, say so. However, do not accept it and say, "We will discuss the next stage." That is all I am saying. I am not saying that they will not do it; I am saying that it is not clear. I could not use that as a basis upon which to follow up as I want to with the implementation of the recommendations.
552. **The Chairperson:** Will you challenge the action plan?
553. **Dr Maguire:** I am happy to make my views known to the Department, yes.
554. **Mr McCartney:** I want to follow on from the Chairman's question. Is the PSNI a member of the criminal justice board?
555. **Dr Maguire:** Yes.
556. **Mr McCartney:** Therefore it was part of accepting the lead responsibility in some of your recommendations. If the process breaks down at any point, that will possibly be someone's lasting impression of their journey through it. Some quotes from the PSNI level seem to be very favourable to the PSNI, but as you get into the system more people become disgruntled, disaffected or disillusioned. How do we prevent that? How do we bring agencies together to understand that a negative impact somewhere along the line has a negative impact overall?
557. **Dr Maguire:** That is a very good question. One of the key messages from our work with the police is the lack of consistency; too much is left to the determination of individual officers rather than there being consistency across the board. That is why we raise post-foundation training as a means of trying to standardise and make the service more consistent.
558. There are two issues there, the first of which is about how individuals progress from one organisation to another. That is why we recommend witness care units, which are about a single point of contact. Once you have decided to go to court, you look at where you can get assistance as you go through the process whether in a magistrates' court or in the Crown Court. There are those who are outside going to court who, nonetheless, may well have needs as part of the justice system; that is why we talk about the development of advocacy services to help individuals to engage with different justice organisations and, perhaps, get answers to their questions.
559. The second, broader, issue is: what governance framework exists on top of this to ensure overall implementation? As we say in the report and in the delay report, we have a fragmented system of governance and accountability across the justice system. The police are accountable to the Policing Board; the PPS is a non-ministerial department; the judiciary sits on its own; and the court system reports to the Minister of Justice. Therefore the role of the Criminal Justice Inspection in pulling that together can be more about persuasion than direction in a sense, and we have a difficulty with how to make that work effectively. We made comments about that before.



560. In order to shift the agenda slightly, we have tried to think about the concept of victims' champions. As senior people in the organisations, they are the right people for the role. Indeed, we have already had one nomination from an organisation. They would be part of the victims and witnesses steering group that is overseeing the implementation and who have operational responsibility and clout, and they could report directly to the Minister on some of the issues. That is one of the areas that the Department has not accepted, because it wants the steering group to go through the Criminal Justice Board. That is the Department's choice. My view is that operational clout is the objective in trying to take any decisions that work their way back into the organisation.
561. There is a governance issue, which is difficult, given the framework that we have, and then there are practical issues, Raymond, about how people progress through the organisation. That is what is behind some of the recommendations that we have put forward.
562. **Mr McCartney:** I am looking at paragraph 3.26 of your report, which deals with PPS consultations. It states that:
- "Depending on the nature of the evidence to be given this may be on the day of the trial or at an earlier date."*
563. You can see the impracticalities and the downsides of speaking to a witness or a victim on the day of a trial. Even the physical layout of a court has an impact. Last week, we took evidence from witnesses who said that the physical layout of the new Laganside courts did not allow for consultations to be done in corridors. I was at an inquest the other day, and I saw three or four consultations taking place on benches that are there for the public to sit on. It would be difficult to brief any person on anything, never mind on the day of a trial.
564. You can understand that the prosecutor's focus is on presenting the case, but if he has to talk to five or six witnesses whom he might view as not being key to what he has to do, those witnesses will go away feeling that they were not treated as they should have been. That should not happen on the day of a trial. Has that been part of your thinking?
565. **Mr Williamson:** There are several issues around that. First, having conducted the fieldwork on this matter, I felt that the glue that holds all this together, and the only common thread throughout, is Victim Support. I will go back to your first question, which was about the gaps that appear in the various agencies as the baton is handed from the police to the Prosecution Service to the courts, and so forth. We have laid those gaps almost bare in our report. We talk about them and the difficulties around them. Victim Support does not do the legal consultations, but it provides continuity for a victim.
566. I need to be careful, and the Committee needs to be mindful, that many victims who go through the criminal justice process opt not to avail themselves of Victim Support. Nonetheless, it is the glue throughout the system. There are various ways of providing continuity for people. Victim Support is one; witness care units may be another. For those who do not enter that part of the criminal justice system, Victim Support is still there to offer the support that people need. It is not advocacy support, but it may be emotional support or signposting to another organisation that can help them.
567. **Ms J McCann:** It is a good report, and you have highlighted some very important issues. You say that Victim Support is the glue throughout the system. I have limited knowledge of these matters, but I know that although people do report crime, a great deal of crime is not reported. There is still a sense that people are afraid to report crime — drug dealing, for example — because of the fear of reprisals. In addition, it is more difficult for people who have been the victims of rape or sexual abuse to go through the system.

568. Where can the gap be bridged between a person talking to a victim in confidence about a crime and bringing that victim to a point at which he or she feels confident enough to report the crime to the PSNI? At some stage in the process, the victim may decide that he or she does not want to go through with it. There needs to be some form of outreach to such people in the later stages. Victim Support told us last week that the offer of support just after a crime has been committed against a person is not always the time when that person wants to take up that offer. Is there a two-way process or some organisation that can offer help?
569. Victim Support is not very visible in the community. We all know that there is a Victim Support office in the centre of the town, but is there some sort of bridging or outreach mechanism that people might use whereby they are supported through the process but if they do not want to report the crime at that stage, that option is left open? Perhaps I am not explaining that very well, but I feel that there is a gap, and I wonder whether it could be filled by a community liaison officer, for example.
570. We talked earlier about the domestic violence officer who worked with the PSNI. There is outreach work done there with victims to enable them, at whatever stage, to report the crime and go through the criminal justice system. I do not know whether you have any ideas on that.
571. **Dr Maguire:** I am sure that Derek has some thoughts on that. We have done work on domestic violence, rape and sexual abuse. When dealing with specialist and difficult crimes, specialist units are established to get people into the process and to treat them sensitively as they go through it. That can be an important contribution to moving into the formal justice system and their reporting the crime. I am happy to share the reports with you.
572. The broader issue is about how advocacy services, to define it very broadly, can generate. We have not been prescriptive about who should deliver those advocacy services. We said that the Department should think about whether it wants a delivery partner. Definition and specification, for example — the kind of outreach for specialist areas that you are talking about — could be part of that. It is something to think about.
573. **Mr Williamson:** I have many thoughts on the specifics. In a broad sense, I would answer your question in two ways. One is that this is about the confidence that people have in the entire criminal justice process to engage with it, whether that be through the initial report to the police, how they will be dealt with in court or how the cross-examination in court will go. Those are all factors in the attrition rate for people entering the justice system. There is a job of work to be done to create confidence in the entire criminal justice processing system, and that is recognised and being worked on.
574. The other element at the strategic level concerns the information that is publicly available to give people that confidence, and a knowledge and understanding of what it will mean to report, for example, an historical case of sexual abuse or a domestic violence incident. Those two things go hand in hand.
575. I am aware from the fieldwork that we conducted in this inspection of a number of ways in which the justice organisations, and the police in particular, provide outreach through helping and supporting people who are in the difficult position of not being sure whether they want to go through the criminal justice system or report a crime. In addition, a number of voluntary and community sector organisations offer help and support. For sexual crime, the Nexus Institute, for example, offers help and support. If Victim Support cannot give the reassurance that people need, it can signpost other organisations that can help.
576. **Mr Dickson:** The report is timely, given where the Committee is, and what you are saying is very welcome. It is

- disturbing to note how dysfunctional a justice system we seem to have inherited and how unjoined it all is.
577. We need a code of practice for victims. That is something that others have mentioned, and we need to have a list of who victims can go to and whom they should see. We also need clear and absolute victims' rights.
578. I want to quote from a document that details the 10 rights that victims should have. The first is:  
*"The right to be treated with fairness and respect throughout the criminal justice process".*
579. The second right is:  
*"The right to timely disposition of the case following the arrest of the accused, provided that no right of the accused is abridged " .*
580. That is equally important.
581. The third right is:  
*"The right to be reasonably protected from the accused throughout the criminal justice process."*
582. That right particularly relates to domestic violence and to the many other circumstances in which people do not want to see each other in court until the appropriate time.
583. The fourth right is:  
*"The right to notification of court proceedings".*  
*You will note that every one of these rights is prefaced with the words "The right".*
584. The fifth right is:  
*"The right to attend the trial and all other court proceedings the accused has the right to attend, unless such person is to testify and the court determines that such person's testimony would be materially affected" .*
585. The sixth right is:  
*"The right to communicate with the prosecution".*
586. The seventh right is:  
*"The right to object to or support any plea agreement entered into by the accused and the prosecution" .*
587. I am abridging some of these. The eighth right is:  
*"The right to make a statement to the court at sentencing" .*
588. The ninth right is:  
*"The right to restitution which shall be enforceable in the same manner as any other cause of action" .*
589. The tenth right is:  
*"The right to information about the arrest, conviction, sentence, imprisonment and release of the accused."*
590. The information about the release of the accused is the most important right. That is enshrined in state law in every state of the United States of America. Can we not, at the very least, have a code of practice that sets out those 10 rights for victims and witnesses in Northern Ireland? Why can we not have a victims' charter enshrined in legislation?
591. This is such a serious matter that it genuinely requires a robust response from the Department. It also requires us to give serious consideration to whether we require appropriate legislation to provide for rights for victims and witnesses.
592. **Mr Lynch:** Thank you, Chairman. I thank Michael and Derek for their report. I have two points. You said that a fairly significant minority was dissatisfied with the service. Was that figure broken down into categories of crime?
593. Some of the people whom we met last week were involved in murder cases, and they told us the same things that you have set out in the report. The presentation that the Committee received last week was the best informed that it has ever had. Those involved were lay people who were particularly dissatisfied with the delays in the system. They cited the murder of Joanna Yates in England last Christmas, telling us that the person responsible had been brought through the system and convicted within 10 months. The murder case that the witnesses were

- involved in took almost three years to reach a conviction, and they described the major impact that that had had on them. I did not understand the impact of such cases before that, but the witnesses described how the case had affected their families and their careers, and that brings in the issue of criminal injury. That delay was a big issue for those witnesses, and you also mentioned that as a major issue in your report.
594. Derek mentioned confidence, and one of the big factors in that is the ethos and culture of the courts, particularly when you get up to the judges. In the South of Ireland, they have looked at the use of gowns and wigs, because people feel intimidated by their use. The witnesses last week also told us that the structure of the court buildings does not suit or facilitate witnesses or the victims of crime.
595. **Dr Maguire:** You raise a number of issues. Derek might pick up on special measures, but I will deal with the issue of disaggregation. We cannot give you disaggregated percentages in each of the crime categories. In the main, and as the result of the methodology that it uses, the Northern Ireland victim and witness survey (NIVAWS) does not deal with serious crimes. The figure of 66% of victims who are satisfied with the service comes from that survey, but that means that the remainder are not satisfied.
596. There is a range of issues. I am in no way complacent because the majority of people are satisfied; there is still a significant proportion who are not. Here is an example of the kind of evidence that we heard. An individual reported a racially motivated attack to the police. There had been several such instances, but he was having to explain himself each time to the police officer who came to see him. He felt that there should be more corporate knowledge as to how the police engaged and dealt with him. Even with such issues, there are still problems. We made a conscious effort to talk to people who had been subjected to serious crimes and many of the issues that you talk about are represented in that, so we hope that the report gives the overall balance of the messages that we are getting. However, we cannot break it down statistically into those kinds of category.
597. On wigs and gowns and special measures —
598. **Mr Williamson:** The statute in Northern Ireland allows for the possibility that wigs and gowns can be removed in court, along with other issues that can be taken into account to accommodate the needs of witnesses giving evidence in court. That ranges from the giving of evidence remotely, via video link, to the removal of wigs and gowns. That is something that we are considering at the moment and will probably report on early in the new year. That is already available.
599. **Dr Maguire:** The other issue was the court estate. We have a very diverse court estate in Northern Ireland, some of which is quite old and does not get to grips with the issues of victims and how they engage with the justice system. All I can say at this stage is that that is another issue that we are looking at and will be reporting on next year, which is the state of the court estate in Northern Ireland.
600. **Mr Lynch:** Raymond said that even the most modern court buildings in the centre of Belfast do not facilitate victims.
601. **Mr S Anderson:** I am grateful for the report. I am reflecting on the last evening and the effects on families. The suffering of the Rankin family in Newry over three years is just one example of the horrendous pain that victims and their families go through. It can go on for some time; in that case, it was for three years. That was a very serious case, but it was only one of many. There are many, many cases out there. Michael talked of 32,000 serious crime cases, involving some 10,000 witnesses. Many people will be affected.
602. Under “operational recommendations” you say that
- “Inspectors recommend that the broad demarcations of lead responsibility for victim*

- and witness care in the criminal justice system are firmly established and followed as follows: Report to decision to prosecute — PSNI; Decision to prosecute for disposal — PPS”*
603. It is OK to say that, but when a witness or victim is involved, it is good to build up the relationship between officers in the PSNI and victims and witnesses. The report discusses training and development. However, we may lose that relationship in the transfer to the PPS. The report says that training and development is “patchy”, but goes on to say that
- “there are examples of good practice”.*
604. Can we build on the examples of good practice that work so that when the move is made from one lead responsibility to the other, there is a continuity to ensure that all is not lost? When responsibility moves from PSNI to PPS, can the care of victims and witnesses be further cemented and improved upon, because, at that stage, it becomes more and more difficult for victims and witnesses. As you say in the report, some people push things right to the limit before they will plead guilty to see how far witnesses will take it or whether they are prepared to stand up in court. How much good practice did you see? Was it just a small amount? Does a brave amount of work need to be done?
605. **Mr Williamson:** We saw a great deal of good practice across all the justice agencies: police, Prosecution Service, Court Service or whatever it happens to be.
606. However, as far as the police were concerned, good practice was not centrally co-ordinated. At individual level — indeed, in individual cases — and at district level, there was good practice, but it was not replicated and lessons were not learned in all cases, although they might have been in some. That is the overarching picture.
607. In conducting the fieldwork it was apparent that, at an individual level, police officers, prosecutors and witness service staff did their level best to take victims’ and witnesses’ needs,
- concerns, fears and expectations on board. However, the problems occurred when a file was formally passed on, as one policy will say that responsibility for it lies with either the police or the PPS, or with whichever body takes it on. In practice, however, the operational people, whether a public prosecutor or a police officer, are not clear about who is responsible. That is why we stressed the importance of allocating lead responsibility. That good practice manifests itself in very serious cases, such as murder, when a police family liaison officer is appointed.
608. In saying that lead responsibility should be allocated, I am not saying that a police family liaison officer should not be the continuity person throughout a case. I am merely saying that the police have the lead responsibility until a file is passed to the Public Prosecution Service; thereafter, the Public Prosecution Service should have lead responsibility. However, the continuity person should be the police family liaison officer.
609. A family should have a single point of contact, and we said earlier in this session and in the report that there needs to be continuity and a single point of contact for victims and witnesses; a police family liaison officer could continue to fulfil that role.
610. In less serious cases —
611. **The Chairperson:** Should it be a one-stop shop from the start of the process to the end?
612. **Mr Williamson:** Yes.
613. **The Chairperson:** Therefore there should be what your report calls a one-stop shop from the police through sentencing and prison to leaving prison.
614. **Mr Williamson:** Yes. A police family liaison officer may not be available post-conviction because there may be another scheme or schemes to take care of that aspect of the process. However, we are trying to move towards a more seamless, one-stop shop service; towards continuity of care and



- treatment; and to a single point of contact for victims and witnesses. We are moving the system closer to that.
615. **Dr Maguire:** At present, under post-conviction schemes, victims can receive information from the Probation Service and the Prison Service on an offender moving back into the community. That is why we talk about amalgamating post-information schemes: to get coherence and consistency on how victims are dealt with.
616. **Mr S Anderson:** Coherence and consistency would give people confidence, from crime to sentencing; that needs to be carried through.
617. **The Chairperson:** I have no more questions, but to make up for my absent colleagues, I want to clarify a few things in my own mind. You gave an example of the action plan with which you are not happy. Under “Operational Recommendations” in your report you say that:
- “the PPS incorporate dedicated training on the care and treatment of victims and witnesses as part of its system”*
618. That was accepted as a response. However, point 5 of the action plan states that:
- “PPS produce a training plan each year to address changes in law, policy and practice. All courses are accredited under Law Society and Bar Council CPD schemes. The care and treatment of victims and witnesses is already included in the training plan. Barristers and solicitors are already subject to mandatory Continuing Professional Development.”*
619. Is that what you mean when you say that you have made a recommendation and it has been accepted? However, my understanding of the response is that the Department already does that. Is that what you were referring to earlier?
620. **Dr Maguire:** Yes. There is another example in operational recommendation 2:
- “On the matter of post foundation training Inspectors would recommend that PSNI examine how they can deliver appropriate... focussed... who are routinely engaged in public response”.*
621. The response was that the recommendation would be accepted and evaluated. You set the context of the recommendation into where it is in the report and what it is trying to achieve. I am sure that they will do that; all I am saying is that the document sets the framework upon which we can determine whether success has been achieved. At the minute, if I can come back and evaluate that, I will say that I evaluated it: there is nothing to say that I did so.
622. Should you ask the Department of Justice to report to the Committee, you would want its response to contain more concrete information on how it would implement those recommendations.
623. **The Chairperson:** You said that the action plan was not SMART and, based on this, you could not do a follow-up inspection report.
624. **Dr Maguire:** I could do a follow-up inspection report, but I am not sure whether it would tell me that the situation had changed significantly.
625. **The Chairperson:** Is that because of the flawed nature of the action plan?
626. **Dr Maguire:** Yes.
627. **The Chairperson:** Well, I have nothing further to add.
628. **Mr Dickson:** You made a recommendation, and the Department said that it was carrying it out. That seems to be a shorthand way of saying that it is not taking your recommendation under consideration. I find that disturbing. We need to revisit that issue when we hear from the DOJ.
629. **The Chairperson:** Thank you very much. I expect that we will come back to you as part of our inquiry; I am sure that you will facilitate us.





# 15 December 2011

## Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)  
 Mr Raymond McCartney (Deputy Chairperson)  
 Mr Stewart Dickson  
 Mr Colum Eastwood  
 Mr Seán Lynch  
 Mr Alban Maginness  
 Mr Peter Weir  
 Mr Jim Wells

## Witnesses:

Dr Lisa Bunting	<i>National Society for the</i>
Ms Janique Burden	<i>Prevention of Cruelty to</i>
Mr Colin Reid	<i>Children</i>
Ms Jolena Flett	
Mr Patrick Yu	<i>Northern Ireland</i>
Ms Marie Brown	<i>Council for Ethnic</i>
	<i>Minorities</i>
Ms Orla Conway	<i>Northern Ireland</i>
Ms Emma McFee	<i>Women's Aid Federation</i>
Mrs Pam Surphlis	<i>Support after Murder</i>
Mr Willie Surphlis	<i>and Manslaughter</i>
	<i>Northern Ireland</i>
Mr Hugh Campbell	<i>University of Ulster</i>
Ms Gerri Hanna	
Ms Susan Reid	<i>Victim Support</i>
	<i>Northern Ireland</i>

630. **The Chairperson:** I welcome everyone today. You will be aware that the Committee is conducting an inquiry into the criminal justice services that are available to victims and witnesses of crime in Northern Ireland. Today is a very important day for this Committee, and, from the outset, I thank you all for coming. Although this is a formal meeting, I want to keep it as informal as possible so that you feel relaxed and able to tell us about the experiences that your organisations are aware of. We will try to conduct the meeting in that spirit, but we will also try to do things in a way that gathers evidence that the Committee can use.

631. I thank you all for your attendance and for providing written submissions to the

inquiry. This event will be covered by Hansard staff who travelled with us from Stormont. Today's evidence will be used to form part of the Committee's report on the inquiry. Members, the relevant information is in your papers.

632. The Committee has received a substantial number of written submissions from organisations that represent or advocate on behalf of victims and witnesses, including the organisations that are represented here today. We have also received submissions from the key criminal justice organisations that deliver services to victims and witnesses, and we have been contacted by a number of individuals who are willing to share their direct experiences of the criminal justice system. We are very grateful to them for doing so.

633. To make the best use of the time this afternoon, the evidence session will be in two parts. During the first, which will last approximately an hour, each organisation will have the opportunity to briefly outline the key issues that impact on the experiences of victims and witnesses, as well as the gaps in current services.

634. I will call each organisation in the order that is listed on the programme provided, and members of staff have microphones that witnesses should use when they are speaking. So, you can all assist us in making sure that we gather the information by speaking only when you have the microphone and by stating your name and the organisation that you represent. If other people from your organisation are with you, put their names on the record as well, even if they do not intend to speak. There will then be an opportunity for Committee members to ask questions at the end of each presentation.

635. On completion of the first part, we will move to the second, which will focus on the identification of the priorities and

- actions that need to be taken to improve the services that are provided to victims and witnesses. That will be structured around a number of key themes that have come out of the evidence that we have received to date, including the provision and communication of timely and appropriate information, the provision of additional support and assistance, the treatment of victims and witnesses, the need for behavioural change, participation in the process, and a number of other aspects.
636. So, I will call each organisation that is listed to speak under each key theme in the order that has been outlined. There will then be an opportunity for other organisations to make further points or comments and for Committee members to ask questions or seek clarification. Once the discussion on a particular theme is completed, I will move on to the next one.
637. That is, I am sure, very clear. You will have to trust me to manage it all and bear with me. I do not want to cut people off, but I want to make sure that we cover as broad an area as possible. So, I will try to diplomatically cajole people into moving on, and we will try to get all the areas covered.
638. I invite the representatives of Victim Support Northern Ireland to introduce themselves and to briefly outline the key issues that impact on the experiences of victims and witnesses.
639. **Ms Susan Reid (Victim Support Northern Ireland):** Thank you very much for the opportunity to give evidence this afternoon. My name is Susan Reid, and I am the chief executive of Victim Support. I am accompanied today by my colleague Geraldine Hanna.
640. With 30 years' experience of supporting people affected across all categories of crime, our overall vision is for the appropriate support and information to be available for everyone affected by crime. We operate in the context of an overall reduction in reported crime and patterns of unreported crime, especially homophobic, transphobic, disability and racially motivated crime.
641. Fear of crime is high in Northern Ireland. The public perception is that crime is on the increase, which, as has been mentioned, is contrary to what the statistics show. That supports the research that indicates that the public generally do not believe crime statistics.
642. Let us refresh our understanding of the demography of crime for a second. Rumgay says that people who engage in crime are more likely to have been victims of crime themselves. Recorded crime rates are highest in urban areas. Those who are most likely to be victims of violent crime are young men aged 16 to 24 years. People who socialise regularly, individuals who live in social housing and rented accommodation, lone parents, people who live in areas where there are high antisocial behaviour rates and those who reside in the 20% most deprived areas of Northern Ireland are all most likely to be victims of crime. So, it is fair to say that those who are already at risk of being socially excluded are also at risk of experiencing crime.
643. That happens in the overall context of Northern Ireland, which tends to be ignored when considering the needs of victims and witnesses. One in five people here has had multiple experiences of the Troubles, with one in 10 having experienced Troubles-related bereavement. Twelve per cent of people in this community, which is more than one in 10, experience the symptoms of post-traumatic stress. Overall, the context is one of high rates of mental illness, physical and sensory impairment, and learning disability. From that overall population come the people who report the crime and enter the criminal justice system. That is what we see as we meet face-to-face with some 13,000 people a year.
644. Through our 213 volunteers and 60 staff, we provided 25,000 hours of direct service in the past year. That is equivalent to over 15 full-time staff. It is through contact with those people that

- we gathered the issues that we want to represent to the Committee. You heard about some of those issues at first hand on 1 December. We have worked hard on and will continue to improve how we gather the actual experiences of victims and witnesses so as to evidence the need for change. Indeed, we contend that the motivation and acceptance of the need to change is probably the major change that is required in the justice system.
645. Somehow, the technical role of the victim in an adversarial common law system can obscure the needs of people who have been harmed by crime. Those needs are seen as additional wants or luxuries that cannot easily be afforded by the criminal justice system. We argue that the need for information and support to be recognised and acted on by all agencies and organisations is a fundamental and essential building block in not only maintaining but increasing the confidence of all citizens in the criminal justice system in Northern Ireland. To that end, we encourage the system to see itself as a service and to regard the experience of victims and witnesses and the systematically captured and collated feedback from victims as a key quality measure of the criminal justice system. That is a fundamental part of the governance of the system. The service should base the remedies and type of support not on assumption but on firm evidence of actual need.
646. In 1985, which is 26 years ago, Shapland, Willmore and Duff stated:
- “If provisions set up nominally in the name of victim support prove neither to aid victims nor to produce the services victims actually want, they run the risk of alienating both victims and also the general public.”*
647. That concluded that such a process was not just premature but potentially dangerous. It is why we have called for a Northern Ireland evidence-based approach.
648. In summary, we have three main asks that are based on what we hear from people who have experienced crime
- here. Each criminal justice agency or organisation should be held to account for delivering continuing improvement in the treatment of victims and witnesses, as evidenced from their actual experience. That should be part of each organisation’s annual planning, and it should be integrated in to their individual target setting and business planning. Awareness of the impact of crime and the needs of victims and witnesses should be a requirement in the continued professional development of all professionals who work in the criminal justice system. The actual experience of victims and witnesses should be continuously monitored and collated for integration in to key performance measures for each organisation. That should be recognised as a cornerstone of quality so that change can be based on evidence.
649. The issues are not new, and were validated again recently in the Criminal Justice Inspection (CJI) report. That report was based on the actual experience of victims, and it echoed the themes that we submitted to the Committee as evidence. Those themes include how long the process takes, the difficulties that people have in finding out what is happening, and the emotional impact that the system has had on those who have already been hurt directly or indirectly by crime. Emotional intelligence can make a difference or, to put it another way, a person can be treated with dignity and respect. However, we recognise the strains that the current system creates for those who work in the criminal justice system. That is why, in addition to making provision of information and support, the responsibility is for everyone.
650. We would welcome the introduction of intermediaries, independent domestic violence advisers (IDVA), independent sexual violence advisers (ISVA), the whole team in the proposed sexual assault referral centre (SARC) and the related services that are based in the community. We would also welcome the full bedding in of the R4 initiative in the

- PSNI, the development and set-up of the witness care unit, with an individual needs assessment being carried out at the start and end of the criminal justice process. All those things, apart from R4, have been operating for some time elsewhere. All have the potential to make a real difference, but none of them, not even the combination of all of them, will be the magic bullet without the fundamental shift in culture and attitude that I alluded to.
651. Those initiatives will realise the potential benefit only if there is a collective recognition that the needs of victims and witnesses matter and that they matter to the criminal justice system. In 1991, which was 20 years ago, an extensive research project resulted in a book called 'Called to Court' by John Jackson, Rosemary Kilpatrick and Clare Harvey. I invite members to review the conclusions and recommendations resulting from that extensive piece of research, which covered not just victims and witnesses but defendants and jurors. I also ask members to compare it with the recent CJI report, which, similarly, was based on the actual experience of victims and witnesses. It might be rather depressing reading, but it also might be our manifesto for the future.
652. **The Chairperson:** Thank you very much, Susan. I am conscious that members are probably wondering when they will get a chance to ask questions. The session will be split into a discussion of themes, so members will probably have a better opportunity to go into specific details during each. However, if there are areas outside those themes that have not been covered and about which you want to ask Susan a question now, you can. Otherwise I will move on to the next group. I think that we can get into a question-and-answer session when we get to each theme so that we do not repeat ourselves.
653. Susan, thank you very much for that. We will come back to you later. At this point, I will introduce Pam from Support after Murder and Manslaughter Northern Ireland (SAMM NI). Thank you very much for coming today; we appreciate it.
654. **Mrs Pam Surphlis (Support after Murder and Manslaughter Northern Ireland):** Thank you very much. I am Pam Surphlis from SAMM Northern Ireland, which stands for Support after Murder and Manslaughter. I have my daughter and my husband with me. Other members were unwilling to come, because they wanted to keep their anonymity. For their own safety and well-being, they find it really difficult to attend public events.
655. I set up SAMM NI five years ago after I had a traumatic experience with the criminal justice system. We support 90 families across the Province, both in and out of the conflict. A particular reason the organisation was set up was because people outside the conflict did not have an advocate to speak on their behalf or give them the peer support that they needed.
656. One flaw in the system that we want to draw your attention to is that we are talking about victims and witnesses; families do not come into this. Traumatically bereaved families are not included unless they are giving evidence in court. That is when they are directly spoken to as being important in the system. We suffer the indignity of having our loved one taken from us by the state and of then being told when we can bury them and when we will go to court and of dealing with the delays in that system. By the end of that process, we feel bullied, abused and badly bruised.
657. Things have changed since my experience, when, 19 years ago today, I was catapulted into the middle of this nightmare of a system when my father and sister were murdered. So, I am using my personal experience and that of my members who have had a really traumatic experience in the criminal justice system. We need an advocate who will speak for us. We need somebody who will take away the responsibility of looking at the problems that arise. I found myself in the middle of a three-tier situation. I had the criminal justice aspect, I had the settling of my father's affairs, and I had the custody of my niece. None of those



- situations turned out well. Therefore, we ask that an advocate scheme be considered to work on behalf of families.
658. Specific case workers in England look at all the problems that families come up against, which are mighty. If a house is a crime scene, people have housing problems. Most of our members are on benefits, and many never work again, so, financially, these issues have a devastating effect on families. We want you to take note of this on our behalf and to look especially at Louise Casey's recent report in England and Wales, which is the largest investigation into how bereaved families have been treated. Thank you.
659. **The Chairperson:** Thank you very much, Pam. I appreciate that it is difficult to go through this, particularly today. Your submission states that there is no reference to the needs of families who have been bereaved. There is reference to victims and witnesses but not to families. Can you elaborate on that?
660. **Mrs Surphlis:** Every agency has its strategy for dealing with victims and witnesses, but when bereaved families are going through the system and go to court, it is only through the good work of Victims Support's court witness service that they are looked after properly throughout the court system.
661. However, outside of that, their needs are forgotten by the various agencies that they come across. During the investigation, they deal first with the PSNI's family liaison officers. Families wrongly believe that that is their support mechanism. It is a matter of trying to explain things to them in language and ways that they can take in and accept at that time. They are in shock. They are not listening; they cannot listen. Recently, someone told me that victims and families do not listen. It is not that they do not listen; it is that they cannot take in the amount of information that comes at them. The recent guide that was produced has been a massive improvement, because people can read it when they are ready. However, often, many people cannot be bothered or cannot sit and concentrate in order to take it in. It is a case of looking at the various agencies and their strategies, raising awareness among all criminal justice agencies of the devastation and trauma that families go through and looking at the possibility of aftercare, because when the system abuses us and the court case and the trial process are over, agencies wash their hands of us and we are left high and dry with no support.
662. **The Chairperson:** In your submission, you said that you were told that you are not a victim because the victim is dead.
663. **Mrs P Surphlis:** Yes. My colleague who helps me in the organisation was told quite emphatically that the court case was nothing to do with her even though her son was murdered. She was told directly that it was nothing to do with her.
664. **The Chairperson:** Thank you. We will pick up a little more from you during the themes section. Thank you very much for your comments. I will now move to the National Society for the Prevention of Cruelty to Children (NSPCC).
665. **Mr Colin Reid (National Society for the Prevention of Cruelty to Children):** On behalf of the NSPCC, I thank the Chairperson and the Committee for Justice for the opportunity to give evidence to its inquiry on victims and witnesses. I am the NSPCC's policy and public affairs manager. I am joined by the two real experts on the subject from our perspective, Dr Lisa Bunting, our senior researcher, and Janique Burden, who heads up our regional young witness service and live link.
666. We have provided the Committee with written evidence in some detail. I thank the Committee Clerk, Ms Darrah, for facilitating that and the recent research publication launch, and I thank the Committee for its interest in the issue. I thought that it would be useful to briefly highlight for the Committee some general themes in our response.
667. Some time ago, the NSPCC in Northern Ireland identified the importance of the criminal justice system in that it plays a significant role in the protection of



children. All the children who interface with it are already victims or witnesses. The system, if it operates sensitively, can ensure that children are not traumatised again and that they can give evidence in such a way that benefits good justice, and, through that, deter those who might seek to harm children. That will eventually lead to better management of information and policy development.

668. Much of our understanding of the experience of victims and witnesses comes from our practice in the young witness service and a series of recent Northern Ireland research publications, which have included analysis of police-recorded crime in respect of children and young people; a study undertaken with Queen's University and funded by the Department of Justice (DOJ) on the experience of young witnesses; an independent evaluation of NSPCC's live link service; and a publication on children's experiences of the criminal justice system. In essence, our practice experience and Northern Ireland research points us in the direction of service and policy development around five key interrelated themes: attrition and delay; collation of adequate information; support for victims and witnesses; provision of therapeutic support; and primary prevention.

669. Research and recent analysis of the police-recorded crime statistics — at this point, I want to acknowledge and congratulate the police on giving us access to that database, on which Dr Bunting did analysis — shows that the majority of sexual violence, 56%, is against children and young people, with one in five sexual offences involving children aged between nought and nine years. That fact alone suggests that there is a need for children's measures in the Executive's sexual violence strategy, which has tended to be quite adult-focused. Girls are the predominant victims of sexual crime: 85% versus 15%. The majority of, but not all, perpetrators are male. In the majority of crimes, the offender is known to the victim and in a position of

trust. The minority of reported sexual crime against children and young people is detected; 19% versus 25% for offences against the person. In our analysis of police statistics, it is clear that there is a relationship between early reporting and successful case outcome, which suggests the need for measures that facilitate children and young people to seek help earlier. We also make suggestions to the Committee in our written evidence about the police recording the relationship between victims in cases that are not progressed. There is a significant gap in our knowledge of victim withdrawal.

670. Attrition — the point at which cases fall out of the criminal justice system — happens largely at three points: the point of reporting; when prosecution decisions are made by the Public Protection Service (PPS); and in court. It is a complex issue that we have studied at length. It is a complicated area with a complex interplay of issues. The research strongly suggests one thing; the benefit of supporters or advocates for young people, similar to ISVAs in England, as a key way to minimise avoidable attrition. When cases get to court, they can benefit from a young witness service, but there is a major gap in support up to this point.

671. Huge improvements to the experiences of child witnesses and victims have been brought about through the use of special measures contained in the legislation. We will soon report on an evaluation of our live link service in Foyle, which members saw this morning. It was assessed overwhelmingly positively by users, professionals, court staff and the legal profession. We make recommendations in the report about the roll-out of the model across Northern Ireland. However, victims whose cases do not go to court — the majority of child victims — have limited support available to them. They have often limited contact with the criminal justice system as to how their cases are progressing, and there is an urgent need to ensure that the support needs of that group of children and their families are met.

672. Although much has improved for those victims whose cases go to court, there are still a number of areas for improvement. The Queen's University, Belfast (QUB) and NSPCC young witness study highlighted that many young people find court perplexing and often traumatising. There are a number of issues for improvement. The delay between reporting and trial is very long; pre-trial support is often lacking; and information on case progression for young people is inadequate. Physically meeting the defendant is a fear that many have. That happens frequently, largely due to the structure of our courts. Aggressive questioning from defence lawyers and a lack of post-trial follow-up are also issues of concern. We make a series of recommendations in our study about core prioritisation of cases involving young people and guidance and training for judicial and legal professionals.
673. The victim and young witness service highlighted repeatedly the need for therapeutic support, which is often insufficient and not available post-trial. We make recommendations on the need to commission regional support services with that specific cohort of children and young people in mind. That is something that the Department of Justice (DOJ) will wish to discuss further with the Department of Health, Social Services and Public Safety (DHSSPS).
674. Finally, on the issue of prevention, our analysis of the police crime statistics illustrates the extent of crime in Northern Ireland. We need to raise awareness of the issues among school-age children, and as a means of preventing victimisation and encouraging those who have been victims to come forward. It underscores the work that is under way in the Department of Education (DE), for example, on "keeping safe" work in the curriculum.
675. We firmly believe that the Committee's inquiry and findings can dovetail with the Department of Justice's forthcoming consultation on victims and witnesses to bring about improved experiences and outcomes for children who are victims and witnesses. Those do not necessarily need resources as such but a willingness from government to seek evidence-led improvements to the system.
676. **The Chairperson:** Thank you for the work that you have done. The report is an excellent piece of work that we will be able to use. I was struck while reading it that, as you mentioned, 56% of all sexual crimes are against children, of which 85% are girls. When you see the statistics in front of you, they are shocking. Thank you for that work. Lisa, I know that you did a lot of work on that, and we will come back to you later in the event.
677. **Mr Patrick Yu (Northern Ireland Council for Ethnic Minorities):** Thank you for the opportunity to present our evidence this afternoon. I am the executive director of the Northern Ireland Council for Ethnic Minorities (NICEM). I am joined by my colleague Jolena Flett, NICEM's senior manager, who oversees our casework and our advocacy and support services.
678. Today, we want to focus specifically on racial hate crime. Before that, I wish to endorse the work of Victim Support and SAMM. The experiences of victims of racial hate crime are generally the same as those of other victims. Today, I want to focus on why hate crime deserves special attention.
679. Hate crimes have received much attention recently. Academics, statutory, voluntary and community sector organisations and the media have attempted to look at the causes and impact of hate crime, but most have failed to look at the experiences of victims of hate crime, and, in particular, at specialised advocacy and support services to cater for the needs of those victims. In most cases, the victim of racial hate crime is also the key witness to the crime. In fact, they are usually the only witness, because even though other people may have witnessed the crime, they may not be willing to give evidence. They also become a victim of the criminal justice system as a result of delays, the agencies involved not

- responding and other related issues. That is why most victims of racial hate crime are desperate to see a result.
680. Hate crime is often a process rather than an event, and it can escalate in frequency and seriousness. It can have a devastating effect on a victim's quality of life. There can be the added trauma of knowing that the perpetrator's motivation is an impersonal group hatred, relating to some feature that the victim shares with others. By its nature, hate crime is committed not merely against the immediate victim or his or her property but against the entire community or group to which he or she belongs, and it eventually raises the feeling of insecurity against the other community or group. As a consequence, hate crime revives old biases or serves to create a new bias, prejudice and negative stereotyping of others. It also creates cycles of mistrust and tension in society.
681. There appears to be general agreement that hate crime in Northern Ireland is on the increase and is subject to significant under-reporting. The PSNI and community groups agree that current statistics on racial hate crime and incidents are only the tip of the iceberg. There are a variety of reasons why ethnic minority people do not go to the police in such circumstances. They include no confidence in police officers, poor experiences with police in the past when reporting racial incidents and crimes, the perception that the police could not help or that the matter would not be treated seriously, fear of revenge and reprisal, and alienation from community groupings due to negative perceptions of the police among minority ethnic communities, in particular Irish Travellers.
682. Our research report, published in 2006, confirmed that many minority ethnic people have experienced profound and repeated racist violence. They have, for example, been terrorised, spat on, burnt out of their home and assaulted. The ongoing racist violence towards and harassment of minority ethnic children, particularly at school,
- is horrifying. As a consequence, many minority ethnic people are living in fear, and some people are in fear of their life. Many are being forced out of particular communities, and some are being forced out of Northern Ireland completely.
683. We are also concerned at a synergy that appears to exist in Northern Ireland between loyalism and racism. The Independent Monitoring Commission (IMC) acknowledged in numerous reports that the UDA and UVF were targeting ethnic minorities and foreigners. The PSNI and the Northern Ireland Affairs Committee have also acknowledged significant loyalist paramilitary involvement in racist violence. Such links need to be tackled much more proactively by all agencies concerned.
684. Due to the nature of racial hate crime and the experience of victims, we examined the Women's Aid model that is used to support women victims of domestic violence and found that our situation, in respect of vulnerability, is identical to those who suffer domestic violence. There are specialised support services for women victims of domestic violence. However, there is a lack of statutory specialised support services for victims of racial and religious hate crime. For that reason, NICEM has been playing a pioneering role in bringing victims of hate crime into the criminal justice process as well as supporting the many and varied needs that arise as a result of an initial attack. Racial hate crime support is an important part of the process of tackling the increase in racial and religious prejudice, particularly when that process includes local community support networks.
685. The support provided by Victim Support Northern Ireland cannot deal with immediate risk assessment for the victim; complaints against a public authority, particularly the PSNI; housing and accommodation issues, which are a vital part of the initial assessment of whether a person is safe to stay in an area; applications to the criminal justice compensation scheme; preparation of a statement with the victim; and

accompanying the victim to the police station for interview. Those are the immediate needs of any victim of hate crime. The Justice Committee should ensure that there are sufficient resources from the Department of Justice to address those needs and barriers and to build the confidence of the victim of racial or religious hate crime through specialised advocacy, advice and support services.

686. I would like to inform the Committee that, in November, we got confirmation from the Minister of Justice, through an Assembly question for written answer, of his intention to opt in to the EU package of directives and regulations in relation to the rights of victims. There is now a new package of law that has been developed at EU level across all the member states. I see that as good news and a good opportunity for us, and, in particular, for the Committee, to look at victims' rights as a whole. We would like to help the Committee with any further information it may need or require.
687. **The Chairperson:** Thank you very much, Patrick. You mentioned in your submission that the Irish Traveller community in particular does not have confidence in the police. Can you elaborate on why you think that is? The other point you raised is that only half of those involved in a hate crime would report it. Can you maybe provide an explanation as to why that may be? For all crimes, we know that only around half of people report. It is about whether there is a difference that we need to look at between normal crime — although I do not like to call it that — and hate crime.
688. **Mr Yu:** On the first question, the main issue is the police's treatment of Irish Travellers. The police's perception of Irish Travellers is that they are a criminal gang. It is not just me making that statement. Nearly 20 years ago, I did anti-racism training for senior officers; I am talking about superintendent level and above. Before I had even started the training, I introduced our member groups within NICEM, including an Irish Traveller organisation. One of the

senior officers said, "Wow, you have criminals in your membership." If a senior officer can say that very publicly, what do you expect those people to do in their treatment of Irish Travellers? A number of research reports by Irish Travellers confirm the same thing. That said, over the past five years, the PSNI community safety unit has been working very closely with the Irish Traveller community. They have a specific officer to work with Irish Travellers to try to break down that kind of barrier. I can see that things are improving, but, at the same time, there is still a perception on both sides. It takes time to build trust in a relationship and to build confidence.

689. The information that only half of people report racial hate crime to the PSNI is from our monitoring data. I mentioned that we provide a case worker to support all victims of racial hate crime. We have very robust monitoring data that can identify all those people, what background they come from, where the crime happened and what the consequences are. We prepare them to go to the police station with their statement. After we get all the information, we ask them to come to the police station with us to make a statement. It is a very important process. In our experience of dealing with the victims of racial hate crime, there is no prosecution because of lack of evidence. It is a chicken-and-egg situation. If you look at the number of prosecutions over the past 20-odd years, you will find that it is very rare to have any prosecutions for racial hate crime. One other fundamental issue is that you need to get sufficient evidence at as early a stage as possible, and it is our job to prepare everything and ask victims to come with us. Our monitoring data shows that only above half are willing to go.
690. With all the support that I mentioned, we do the risk assessment at the very beginning to make sure that victims are safe. If they have children in school, we want to make sure that they are safe on the way back home. So, we have provided very important support.

- That said, only half are willing to go to the police station. I mentioned earlier the main reason why they do not want to go to the police station. There are different circumstances. In most cases, fear of revenge is the main reason. The perpetrator often lives nearby and, if the victim goes to the police station, the police will go to their house and there will be more attacks as a result. That is the situation.
691. I mentioned a statistic from 2006. Recently, we did a second batch of research based on our monitoring data from the new cases and from the previous ones. The figure did not change much; it is almost identical. So, even though we and the PSNI have been working very closely and very hard over the five-year period to break down that barrier, we have not had much of a breakthrough in one sense. In a general sense, that is based only on the cases; some other people do not report. We manage only a certain number of cases on our side, and we cannot represent the whole of Northern Ireland.
692. **Mr Hugh Campbell (University of Ulster):** I am from the Jordanstown campus of the University of Ulster. In 2003, we wrote the practice manual for the youth justice conference, the newly formed wing of the Youth Justice Agency. We then went on to work on accredited training and restorative practices from undergraduate level through to postgraduate masters, and those were the first academic programmes of their kind in the world. Our training experience has taken us deep into the Youth Justice Agency, the Police Service, the Prison Service, education settings and social services and into collaboration with community-based provision through Northern Ireland Alternatives and Community Restorative Justice (CRJ) Ireland. We have mainly had a training resource role with those organisations.
693. Our premise this afternoon is that restorative justice for victims of crime who agree to participate in the process produces consistent results that indicate high satisfaction rates. We want to emphasise that we see restorative justice as an addition to the established judicial system, not an alternative to it, and we are also clear that restorative justice is not a remedy for every victim. Nonetheless, the research into the value of restorative justice for victims across jurisdictions and international boundaries is compelling, and we will be happy to provide you with the evidence of that research on a subsequent date. I have looked at research from Australia, America and continental Europe and at pilots in England and, of course, Northern Ireland.
694. You often get figures of around 90% or higher from victims who say that they are satisfied with the restorative process and its outcomes. That leads you to ask what victims are satisfied with in those encounters, and the pattern that emerges is that victims say that they like the way in which the offender is held accountable; they appreciate that their own story and views are fully considered; they appreciate that the way in which the process is facilitated deeply respects them as people; and they appreciate the recognition that injury or assault on one person is injury or assault on many people, including family, friends and neighbours. Pam made that point earlier.
695. Victims also talked about the importance of a direct apology as a way to create some sort of emotional restoration. The focus for a victim in a restorative process is on the harm that occurred and a fuller version of the truth emerging. The traditional prosecution process tends to have a narrow focus on forensic truth whereas a restorative process allows space for a wider narrative truth to emerge, and, in some cases, perhaps controversially, a truth that may lead to some healing for some victims.
696. In addition to the macro-level issues, some research suggests that victim satisfaction has psychological benefits. The research, which is limited, indicates that victims of burglary and robbery who were involved in a restorative process returned to work and normal activity



- sooner than those who went through a normal court process. I can provide the Committee with those research papers.
697. All of that is predicated on good practice. There is a template in Northern Ireland that works and is widely recognised. That template has been hammered out through the work of the Youth Justice Agency and the youth conference service over the past eight years. I think that there have been 30,000 restorative conferences in Northern Ireland through the agency, which is a huge figure.
698. Community-based organisations paved the way. The challenge now, and what we ask the Committee to consider, is how to scale up provision and work towards a restorative justice system in a fuller sense. In particular, we feel that that means extending the youth conference service to create an adult-based service so that crimes committed by adults are also looked at in the context of restorative processes. We think that, if Northern Ireland were a restorative community, it would employ a graduated sanctioning of offenders using restorative solutions first and an increasing course of solutions for those who persist in harming others.
699. Community schemes are proving their value in addressing harm, particularly harm that emerges in neighbourhood disputes, which are very hard to get to the bottom of and to police. They are often the types of disputes where all the parties see themselves as victims. Northern Ireland Alternatives and CRJ Ireland have an established and recognised track record in dealing with alternative dispute resolutions. The access to justice review talked about extending such provision in the report that came out last year or earlier this year — I am not quite sure of the date. However, the provision of community-based work is piecemeal. There is a very fine community restorative justice project in this city that deals with complex and difficult cases. That provision extends to north and west Belfast, part of Bangor and south Armagh. However, that is very piecemeal. The work of those organisations is extensively supported by communities and the Police Service.
700. I have other comments that I want to raise in the second half of the meeting, but my final point is about what happens to people when they are sentenced for a crime. Almost every person who goes to prison goes back to their own community, where their victim lives. We feel that they should be obliged in the sentence plan to address the harm that they have caused their victim, their own family and their community. That plan should also prepare prisoners to return to live socially constructive lives.
701. I was in Maghaberry prison on Tuesday. I go in every week for a programme. I was doing work with a man who is seven years into a sentence for violent crime. It is not his first time in prison. He said, “For the first time, I am beginning to think that I actually had victims.” It is appalling that any prisoner should be allowed to languish in jail without being asked to face the consequences of what they have done, who they have harmed and how they have harmed them. If that work were developed, it could even lead to direct encounters between people who have served a sentence and their victims. The Prison Service here has done a small but significant amount of work in that area.
702. We will reserve the rest of our comments for the second part of the meeting.
703. **The Chairperson:** Thank you very much, Hugh. We turn now to our last — but by no means least — group: Women’s Aid.
704. **Ms Orla Conway (Northern Ireland Women’s Aid Federation):** I am Orla Conway, and I am joined by my colleague Marie Brown. I am based with Women’s Aid in Omagh, and Marie is with Women’s Aid here in Derry. Thank you very much, Mr Chairman and Committee members, for giving us the opportunity to give evidence. We are very pleased that this inquiry is taking place.
705. Domestic violence is a crime. PSNI statistics show that there are huge amounts of domestic violence. Last



- year's statistics show that there were more recorded crimes with a domestic motivation than the combined total for sexual offences, robbery, armed robbery, hijacking, theft and taking away of cars, arson, dangerous driving, handling of stolen goods and offences under anti-terrorism legislation. Domestic violence outweighed all those together. There were 20 murders in Northern Ireland last year, seven of which had a domestic motivation. Therefore, just over one third of all murders in Northern Ireland relate to a domestic situation.
706. Our organisation has been providing services to women and children who are victims of those crimes for more than 30 years. Last year, we provided support, in our refuges and community-based projects, to 5,500 women and 4,500 children across Northern Ireland. Given our experience of listening to them, we have developed a number of services for women and children who are witnesses and victims. Those services were lacking elsewhere, and we had to come up with them ourselves. We have court support workers, who are largely volunteers, throughout Northern Ireland. We have developed and accredited a training programme for volunteers to support women who are going through the court systems. As we state in our written submission, they pick up for victims, time and again, the lack of provision of information, support and information on the jargon used. Those are all challenges that victims have to contend with on top of the crime that they experienced.
707. A recent innovation in some areas of Northern Ireland has been the development of criminal justice workers. They are Women's Aid workers who sit in police stations alongside public protection officers. Public protection officers are there to investigate the crime, but the criminal justice workers that Women's Aid employs sit in police stations to provide support for women and, hopefully, increase the chances of successful prosecutions. There is evidence that they are having an impact in that regard.
708. There are still a lot of gaps in services for victims. There are things that we would like to happen that would improve the experience of women and children who are victims of domestic crimes. We would like to see the development of specialist domestic violence courts. That model operates in Glasgow, and members of Northern Ireland's regional steering group on domestic violence recently travelled to Glasgow to see how it works. A pilot of a domestic violence court is operating in Derry; my colleague Marie pushed very hard for it. That court is now up and running with — it has to be said — very little input from the lead agency that provides services to women and children in this area. We would like to see a roll-out of domestic violence courts, perhaps similar to the Glasgow model.
709. We would also like to see an extension of the special measures that are available to vulnerable witnesses who give evidence. We are told by the Public Prosecution Service that special measures are a difficult application for them to make and are not usually granted. We believe that an extension of the provision of special measures would enable vulnerable victims to give better quality evidence and increase the rates of successful prosecutions. We would also like to see victims having a status, or being acknowledged as victims. As the lady from SAMM NI said; you are told that you are not a victim, that you are a witness, and that you are there just to help the prosecution. At best, you are tolerated. We have examples of women who were treated discourteously or rudely by members of the judiciary or by prosecution staff. Victims are not given the respect that is due to them. As a minimum, we believe that going through the criminal justice system should not leave you feeling any worse than having been a victim of crime in the first instance. Unfortunately, far too many women tell us that they wish that they had never reported the crime to the police or allowed the prosecution to go ahead, because of the violation that they felt again in going through the court process.

710. We are happy to take questions, either now or on the individual themes.
711. **The Chairperson:** Thank you very much. We will come to you again in the next theme section, which we are moving on to now. I will call out the theme; and we have identified specific groups to call first. Then, those groups that have not been named as one of those in this particular theme may also comment. Once the four groups have had the opportunity to speak, I will allow members to explore the theme.
712. The next theme is “the provision and communication of timely and appropriate information”. We should try to keep specifically to that theme. When we have an opportunity to speak, we are in danger of trying to cover everything. If areas have been left out at the end, I will come back to them.
713. **Ms S Reid:** First, I would like to briefly outline a piece of work that we are doing to capture exactly what victims and witnesses are asking for when they come to us. I want to link that to my opening remarks about an evidence-based system. There is now scope to be very accurate about what people want to know, rather than resort to generalities or even to try to presume what information people want. Just to give you a tiny flavour of that: people who contact our witness service want to know things such as how long they will be there; when the case will start; whether they have to remember the oath, and how they will know when they have to come back. They are also concerned that they may not understand why the case is being dropped, and they may not have their statements. So, there is the possibility of not only capturing the actual concerns, the patterns of concerns and the queries that people have, but also to use that as a test or benchmark for where other initiatives on information and support are operating. We might be able to indicate where those may not be achieving their intent.
714. From the journey-mapping that has been done, it is interesting to note that satisfaction tends to decline as the journey through the criminal justice system proceeds. Information — as in answering concerns, not assuming that you know what people want, and providing them with the information that meets their needs — very much seems to make the difference to people’s experience.
715. We want to highlight some key points in talking about accessible information. The first is in relation to the use of legalese; the language that is familiar and common in the criminal justice system, but which is completely alien to most members of the public. It should be avoided. Language is obviously an issue, and Patrick has already touched on its accessibility. We are very pleased to say that we work with NICEM to make sure that we get translation services, when they are needed, for the people that we are trying to support through the witness service, the criminal injury compensation scheme and the community service.
716. Other considerations include visual impairments and learning difficulties. I go back to the point that I made in my opening remarks, about the population of Northern Ireland and its needs as a whole. The communication that we provide needs to be targeted, with consideration given to the average reading age of the population and its diversity. Perhaps the most overriding need with regard to communication and appropriate information has already been presented to the Committee several times this afternoon, and it is about having an appropriate attitude. It would be an important and significant shift in attitude if we were to move to informing people with a will and with good intent rather than, at worst, making the point that it is not their case and, at best, giving the information, but in a coded way, which suggests, “I am giving you this, but I don’t really have to do so”.
717. **Mrs P Surphlis:** The information that bereaved families get is very patchy. That is particularly so during the period when the case goes to the Public Prosecution Service, which can be a long and drawn-out process for families. However, for most families, the

- launch of an appeal is the worst part. Most of them read about that in the newspapers. There is no mechanism for informing them directly that an appeal has been lodged. I and a lot of people have experienced that, and it is very distressing.
718. I agree with Susan with respect to the use of legalese. The jargon used in court is beyond the families, particularly when they are deeply distressed. Letters from various organisations, particularly those from the Criminal Injuries Compensation Agency, are very damaging with respect to some of the explanations they contain. They are bland, almost one-size-fits-all letters, and are completely damaging to families. One lady recently got a letter that said that her award was being considered. When she got her award, she realised that she had lost 80% of it. She considered that to be comparable with what a criminal would have secured. So, it is a matter of looking at the communications that come from various agencies. I know that many of them are making great progress in what they do, but there is still a lot of work to be done.
719. **Mr H Campbell:** First, we endorse what articles 3, 4, 5 and 6 of the European Parliament draft directive of May this year states about establishing:
- “minimum standards on the rights, support and protection of victims of crime”.*
- Draft articles 3, 4, 5 and 6 refer to information rights and the:*
- “Right to understand and to be understood”.*
720. I will not repeat what is in the directive, but I will signpost its significance.
721. In addition, we request mandatory training for police officers, Public Prosecution Service staff and the judiciary in how to communicate with victims in a respectful and supportive way. That training should also examine the needs of victims, the impact of harm and behaviours and language that help to restore some sense of safety and control to victims. The focus should not be narrowed to only what they consider
- to be just. We would also like a revision of, and an improvement to, materials that explain investigative processes, the roles and responsibilities of various agents in the justice system and timelines, including how they unfold.
722. **Ms Conway:** I echo the general comments made already and add a few specific examples. One that comes to mind is on the variation of bail conditions. Often, a victim is not made aware when bail conditions have been varied in a way that may allow the perpetrator to return to an area in which the victim and her children live. There also seems to be confusion about whether it is the responsibility of the police or the Public Prosecution Service to inform the victim. So, the issues are things such as the lack of clarity about whose job it is to inform victims and the fact that important information is not always communicated.
723. **Ms Marie Brown (Northern Ireland Women's Aid Federation):** I would add the issue of the service of non-molestation orders. Again, we have had several victims tell us that they have not been informed when orders are served. Some families have been removed from their homes and cannot get back to them until such orders have been served. In other cases, some orders have not been served, so victims have to go back into the court system and have the orders renewed, which can sometimes take a month. So, there are issues around that. When victims do not receive feedback from a range of people in the criminal justice system, it causes a high risk of anxiety among them. That includes the police not providing feedback on how the case is progressing, the victim's own solicitor not providing information and victims not receiving information from the PPS. There is also a risk of anxiety when victims do not know who will deal with them the next time they go to court. They worry that that person will not be au fait with the case. Lack of knowledge causes anxiety and is one of the reasons why we looked for a specialised court to deal with all of this.

- The attrition rates for domestic violence across Northern Ireland are very high, and those are the reasons.
724. **The Chairperson:** Thank you very much. I will allow members to explore some of this in a moment. I have picked up on what you said about how you are communicated to and the disrespectful comments that are made. Victim Support talked about a lack of emotional intelligence in how agencies handle victims. It and the NSPCC recommended training for the judiciary and legal profession on the questioning and cross-examination of victims and witnesses. Perhaps I can draw in the NSPCC on the issue of how people are treated and the proposed training that you talked about. I will then bring some members in.
725. **Dr Lisa Bunting (National Society for the Prevention of Cruelty to Children):** That is very much an issue for us. Quite often, when cases come to court, there is very aggressive questioning. In many cases, some parents consider that to have crossed the line towards abuse. One case particularly comes to mind from when we were doing the young witness research with Queen's University. A father talked about standing outside the live link room for two days with his hand on the handle ready to go in while he was listening to his daughter cry through two days of testimony. That was very difficult for him. With the help of the young witness service, he continued with that, but, to this day, he questions whether he was right to do so.
726. There is a huge issue with training for legal professionals, and we would like a system that is similar to that which has developed in England and Wales, where there is now recognition that questioning children is a specific skill that needs to be trained for. Guidance has also been issued by the judicial studies board, which recommends that there should be a process of training and accreditation. If that exists in other jurisdictions, it is definitely worth considering for Northern Ireland.
727. **Mr Eastwood:** We have probably moved a bit, and the themes will probably be interrelated. Patrick, you talked about the attitude of the police and the lack of understanding on certain cases. Marie and Orla, I know that you have done a lot of work with the police in Derry — and it is a pity that the Rainbow Project is not here, because it has also done a fair bit of work. Marie and Orla, can you talk a bit about whether your experience of working with the police has helped and, if so, how? Can any lessons be learned from that?
728. **Ms Conway:** There are now specialist, trained domestic-violence officers, which has been a huge improvement. There are now dedicated public protection units that deal with domestic violence in each of the policing districts; so, there have been police initiatives that have helped victims. There is still a bit of work to be done with the response officers, but there have been great improvements with the presence of the domestic violence team.
729. **Ms S Reid:** One theme that I should have picked up on and which cuts across all of the comments made is that, potentially, barriers can be created through the interpretation of data protection. Having known colleagues who work across the sector, I know that there is a common issue of trying to reach out to people to help them to access the support and information that is actually available. On the one hand, there are, quite obviously, appropriate systems and interpretations of systems around protecting the individual's privacy. On the other hand, unfortunately, that can also end up being a barrier in being able to have the contact information to reach out to people in a timely fashion to inform them of what is there.
730. The other point that I want to build on is that, because of the myriad of issues and the complexities of law and the number of variables that there are on how things can progress, one thing that we are very clear on in our attempt to support and inform people is that, often, a written narrative just does not work. What is required is face-to-face or telephone contact with people so that there can be a conversation that



- explores the concerns and issues and that, hopefully, can provide the answers.
731. **Mr Wells:** Do the witnesses accept that although things are not perfect by any means, huge strides have been made? For various reasons, I have been around courts for 30 years and, in my opinion, things have moved in the right direction. Secondly, given the fact that witnesses are often there in an extremely traumatic situation, is there not an argument that no matter how well handled something is, witnesses will be left stressed, concerned and worried about it no matter what is done due to the nature of the situation that they find themselves in? Therefore, we are never going to reach a situation where witnesses will come out and say that it was not too bad and that it was quite a pleasant experience. Given what has been related today, that will probably be impossible. Even if the police, the Court Service and the Department of Justice do everything right, people will still come away feeling that they have been through several rounds as it were when they come out of the system.
732. **Ms S Reid:** The evidence is clear. I am not exactly sure from memory, but I think that we are on to our third suite of information. The Northern Ireland victim witness survey validates that, overall, there has been an improvement in the system. I would not want to say that there has been no progress. We also have to recognise, hopefully, that some people will not experience the system over and over again. Therefore, their experience is personal and individual, and they do not necessarily have a mental benchmark of how it was 10 or 20 years ago to note the difference.
733. Looking at the survey, which is based on interviews with about 1,000 people who had experienced the criminal justice system, there is a difference in experience between what are called the injured parties — what you might call the direct victim — and witnesses, and that is something that we might need to explore a bit more. I am sure that other colleagues will want to pick up on that as well.
734. Overall, we want to challenge that it is inevitable. It is a serious and challenging process, but there is clear evidence that where people are informed about it and reasonably supported, and their queries are answered as they go through it, it is not that bad or harmful. I also suggest that if we are going to persist with our adversarial common-law system, at the very least we have to ameliorate the effect of the crime and the effect of the criminal justice system. If we are saying that we are putting people through a process that stresses them further, adds to their symptoms, and possibly even leads to incidents of post traumatic stress, then the very least that we can do it is to ensure that they receive the therapeutic help to ameliorate those effects outside the criminal justice system.
735. **The Chairperson:** I want to move on, because we are in danger of talking about the whole theme in the round. I want to stick to the specific issue of communication in terms of timely and appropriate information. I note that my colleague took me on a tangent there. However, I want to get back to this particular theme. Raymond, you wanted to comment on this.
736. **Mr McCartney:** I can make my point at a later stage.
737. **The Chairperson:** OK, then I will move on. The next theme that we are going to deal with is provision of additional support and assistance. The first group that we come to is the NSPCC.
738. **Dr Bunting:** I want to reiterate my colleague Colin's point. If there was just one thing that we could do to really improve the experience for children and young people who are victims of crime, it would be the provision of support from the point of report onwards, which is incredibly important. At the minute, we have the young witness service, which has made massive changes. Picking up on Jim's point, there have been huge improvements. The context in which children give evidence at the moment is vastly different from where it was 10 or 15 years ago.

739. Unfortunately, support for the group of young people who do not go to court is much more ad hoc and limited. From our study of attrition and looking at recorded crime and our other research in the UK, we know that in the vast majority of cases only one in five sexual crimes against children is detected and only one quarter of offences against the person —
740. **The Chairperson:** Will you elaborate on what you mean by “detected”?
741. **Dr Bunting:** I mean detected in the police sense, under Home Office counting rules, that they are considered to have enough evidence to proceed within the system. Already we have seen that only a tiny proportion of the crimes that have been recorded are considered to have enough evidence to go forward within the system. Of that 20% or 25%, not all will proceed, for a variety of reasons, so the cases that end up in court will be a subset of those smaller groups, perhaps half of them. The Criminal Justice Inspection report tells us that, overall, for sexual crime, only 6% of reported crimes will result in conviction. That is a massive area. Part of that drop-out rate is about people disengaging from the system and withdrawing their prosecutions and involvement with cases. We think that it is incredibly important to develop support for them from that point on, and that somebody should provide a link between the criminal justice system and the victims and their families. Those are points that Pam and Susan have also raised.
742. Abuse and crime are not things that just happen to children. They happen to their families, and their families have to deal with it. Providing support to parents is incredibly important as well, and helping them and guiding them towards the best way to support their children through the process should be part of that. We strongly recommend that we develop some kind of support system, like independent sexual violence or domestic violence advisers, to provide that kind of practical and emotional support from when a victim reports a crime. They can also act as a signpost to more specialist therapeutic services where necessary.
743. **The Chairperson:** Thank you. Patrick, from NICEM —
744. **Ms Jolena Flett (Northern Ireland Council for Ethnic Minorities):** I am not Patrick. *[Laughter.]*
745. **The Chairperson:** I can see that. Apologies.
746. **Ms Flett:** My name is Jolena. As Patrick was saying, I have been working with NICEM since 2003 on advice and advocacy support for victims of race hate crime. For us, a lot of this will be a reflection of comments already made about the advice and assistance that people need when going to the criminal justice system. In particular, a premise that we work on is that when people are victims of hate crime, the impact of the vulnerability that they experience is often the same as that of someone who has experienced a much more serious crime, even though they might only experience things such as verbal abuse.
747. There has been extensive research on that, particularly by Paul Iganski, who has done quite a bit of research showing that, even when someone experiences what we would call low-level incidents, they experience the same type of post-traumatic stress disorder that someone would have experienced had they been assaulted. A lot of this is based on people who we have supported with our service. There have been over 500 people coming through. A lot of them are dealing with things such as family breakdown, not being sure whether they are able to stay in Northern Ireland, and not understanding the system. We are helping people to access the criminal justice system, because often there is no liaison that they can go to. The PSNI did have incident minority liaison officers, but that position was changed recently in the restructuring, and the service was basically subsumed into the wider structure of the police service. The liaison officers that we did have, though it was not a perfect system, are now no longer there, so there is no one point of contact for



- people, which makes it very difficult to navigate the criminal justice system.
748. As reflected in the comments made by the NSPCC, when a hate crime is perpetrated it often does not even get to the court system, because, although it might be reported, there is often not enough evidence or witnesses to ensure that a perpetrator is made amenable for it. Often it stops at that level, which then makes it very difficult for people to continue with the system and have any confidence in it. The advice and assistance that we provide helps to bridge that gap, and hopefully helps to take them a little bit further in the system than they would have got without it.
749. **Mr Patrick Yu (Northern Ireland Council for Ethnic Minorities):** I have one additional point. It also links up with the previous theme about the communication and time. I also had a chat with another sector. It is about the issue of how to challenge if the sentencing is too lenient.
750. Perpetrators of crime will be informed about their rights by their lawyers. However, no one tells victims about their rights or that they have only 30 days, including Saturdays, Sundays and public holidays to challenge a sentence. We had one case of racial murder in Northern Ireland, and the sentencing for that took place just before Christmas. No one told the family who had responsibility. At the end, we had only four days after the Christmas and new year period to challenge that sentence.
751. There is a grey area around who has responsibility. Is it the court? Is it the Public Prosecution Service? It is very important to ascertain that. I would like the Committee to make certain recommendations about the mandatory need to inform victims about their rights if they feel that sentencing is too lenient.
752. **The Chairperson:** Susan from Victim Support NI, would you like to comment on the provision of additional support and assistance?
753. **Ms S Reid:** The points that we want to make under this theme may overlap slightly with the previous theme, so bear with us. The overall point to make is that individual need should drive the definition and provision of additional support and assistance, rather than trying to assume what the need is as defined by the category of crime. We have already touched on some of the points that we would urge all due speed to be taken with, including the progressing of intermediaries and the development of the witness care unit, IDVAs, ISVAs and civil advocacy services in the system.
754. Our vision is to develop our organisation further and become the Citizens Advice of the criminal justice system. We could provide those who have been harmed by crime with what we know and information on where to go to get answers. We could also get support from other agencies to assist in getting answers for victims and witnesses.
755. This theme links to this afternoon's constant theme: the attitude that is demonstrated by practitioners and professionals in the criminal justice system. We feel that the overriding principle is that intervention and the assessment of need should occur at the earliest point in the interaction with the person who reports the crime. That will mean that, at the outset, due consideration is given to the quality of the statement.
756. We have heard evidence today from colleagues who work in the specialist area of childcare. I want to link that evidence with the knowledge that there is about sexual violence and domestic violence, and the absolutely key point of phrasing questions in the right way. That will mean that a person, who may not even understand why he or she has responded in a certain way, is given the best opportunity to report their experiences in a way that will be appropriately evidenced through the criminal justice system. That would apply whether it is a child who is a victim of a sexual abuse or an adult who has been sexually assaulted.

757. **Ms Brown:** We want fully integrated domestic violence courts. We would also like to bring in some of the victims agencies. Susan, I do not know whether we have contacted you about the local court, but I have met with Victim Support. We have campaigned for those courts and have heard that there have been listings for that court, but no one has ever come back to us from the victims agencies to bring the victims into the court.
758. There also needs to be other provisions and support such as childcare, and witnesses must be prepared for the ordeal of going to court. To pick up on a comment that was made, we know that court will never be easy for victims, but a lack of communication and a lack of knowledge about what is going on and what the outcomes may be really stresses witnesses out. Many victims are left standing in court for an hour after their case has been heard, with no one telling them anything. Dealing with those things could really reduce stress levels for victims. Those are create stress for the women that we have, as is knowing whether you have adequate childcare provision if you have to be in court all day and will not be about to look after your child. Therefore, we want to see a willingness to establish the domestic violence-specific court.
759. Training is another thing that I feel is needed for solicitors right through to judges. Although we recognise that many of them have improved, no victim should ever go in and be insulted in court by a magistrate or anybody else, yet that is happening. We can bring witness testimony to the Committee to describe how some people have been treated. That is beyond contempt, and there is no redress for it, because I have two victims who want to make complaints about how they were treated. However, as yet, I have had no reply from anybody to tell me how I can support them to do that. That is a real difficulty. It is, again, why many victims say that they do not want to go through the court — because of how they have been treated. Some say that it was more traumatic than the actual beatings that they got from the perpetrator. That attitude really needs to change. If we had more training and a domestic violence-specific court, that would be a great model for the other things and the other agencies. We could use that as a model of practice for the different issues that we are all bringing up here.
760. **Mr H Campbell:** I am slightly uneasy about the comments that we are making progress. Page 1 of Michael Maguire's report, published this month, on the care of victims talks about a pattern:
- "many of the problems identified in previous inspections are still raised by victims and their representatives. A sizeable proportion of victims remain dissatisfied regarding their ... contact with the criminal justice system".*
761. If the system remains rooted only in adversarial responses, victims will stay on the periphery. We may improve some of the conditions around that experience, but victims will remain peripheral. Their experience cannot be fully appreciated and supported by staying only in an adversarial system.
762. Specifically, we are curious and unsure about how officers or other justice officials who first encounter a crime victim are trained to gauge the vulnerability of that victim. We have questions about an assessment tool, training and protocols to help officers and other justice officials who are first on the scene to understand how vulnerable someone is. It is a complex area.
763. **The Chairperson:** Susan, will you elaborate on exactly how you envisage a witness care unit to provide additional support would operate?
764. **Ms S Reid:** The simplest way in which to explain it is that the witness care unit would be a focal point. First, it would be a group of staff who are trained to understand the systems that operate in the core process, end to end. The group would be organised and have the information, hopefully, from the Causeway initiative, which is unique to Northern Ireland and is an incredible potential resource. It may actually take

- us forward with the data protection issues that I spoke about. It would, I hope, have the facility to make contact, perhaps by telephone, with people who are to come to court as witnesses and to undertake the needs assessment that Hugh talked about — have that particular conversation to ascertain what concerns people have and their potential vulnerabilities or issues. That might be to ascertain whether the potential court date is on the anniversary of a loved one. It might be to do with facilitating childcare issues and understanding the implications of the court date or their availability as a witness. It could also pick up cognitive issues that had not been picked up on earlier, such as the need for intermediaries.
765. The witness care unit would then, hopefully, make contact with us and with the NSPCC concerning the young witness service and the adult witness service in the criminal courts. I should make that distinction: we are talking about criminal courts as opposed to family courts. We could cut down on some of that delay and some of the problems that are caused by people coming too late to the physical court building and, therefore, being too late for the opportunity to understand the process and have their queries answered.
766. The Causeway initiative has the potential to be a vehicle to assess that need. That will be tested by the quality of the needs-assessment process and the facility itself when it comes into being. Equally importantly, it has the potential to assess need at the other end of the process. It could pick up on issues, such as those that Jim mentioned, when there is a further need that the criminal justice system cannot meet. It can try to make the connections with other service providers and organisations that are represented here today to ensure that people have access to care after the court process.
767. **The Chairperson:** Thank you. The next theme that we will touch on is treatment of victims and witnesses and what behavioural and attitudinal change is required. Hugh, I invite you to talk first about behavioural and attitudinal changes.
768. **Mr H Campbell:** To be honest, I do not have anything specific to add to the comments that were made on this previously, Paul. I have said everything that I want to say on it.
769. **The Chairperson:** I like that. It was probably covered in the discussion on communication and information. I invite Pam from SAMM to speak.
770. **Mrs P Surphlis:** I will have to change my name so that I am not “Pam from SAMM”. My colleague is Ann, so we are Ann and Pam from SAMM.
771. Most of the attitudes that we come up against concern how traumatically bereaved families are told to behave in the court process. You cannot cry, because you might distract the jury. You cannot go out if you are upset or do not want to hear it. It is all about families being told what not to do rather than being told what is appropriate for them to do.
772. Recently, in court, a family were told to move three times because they were in tears. A lady who has been with our organisation for quite some time was told at the preliminary inquiry for the case that she could not go into the cafe because the two defendants were in there. Who is the criminal and who is the bereaved family?
773. **Mr McCartney:** Who told you that?
774. **Mrs P Surphlis:** It came from the court staff, and I was present at the time.
775. **Mr McCartney:** It was just someone in court?
776. **Mrs P Surphlis:** Yes. We are shepherded about. We are escorted out when leaving court. We are told that we should not make any comment or draw any inference at all. You have to sit there being completely silent, which is extremely hard to do when you are very distressed. That is all that I can say.
777. **The Chairperson:** We heard these types of examples in evidence last week. Did

- anyone ever explain why you should not show that type of emotion?
778. **Mrs P Surphlis:** No. Victim Support's witness service has done massive work on that. I am one of the organisation's original volunteers, and I joined because of the experience that I had. When I arrived at court on the first day of the trial in Enniskillen in 1994, the court door was locked, a policeman was standing up against it, and the press were hounding me. When the witness service started, I joined it to help address that sort of thing.
779. I am full of admiration for the work done by Victim Support's witness service. It makes the experience for bereaved families so much better. All the other agencies could work in conjunction to make the experience more positive. For bereaved families, it is not only about getting the sentence. That is part of it, but it is also about the treatment that they receive.
780. It is not widespread, but, in some cases and some areas, senior prosecutors refuse to talk to families. They leave that to their junior. Some families have been told that you do not have to be there for the mentions. That is a family's right. Families need the information and to know what is happening, because, quite often, they are not aware of all the details.
781. **The Chairperson:** Women's Aid, in your submission you talked about harsh and insensitive treatment, and you elaborated on that when talking about some of the insults. Can you be a bit more specific about the behaviour and attitude that needs to be changed of the police, the Public Prosecution Service, the courts and the judiciary?
782. **Ms Brown:** My experience is that insensitive treatment is unlikely to come from the police, in fairness. It is more likely to come from within the court process, and several victims have had personal comments made to them by magistrates. They have been told that they are wasting time and been asked whether the crime really happened to them. They have given their evidence and then been insulted.
783. Recently, I was in court with a male victim whom I had supported, and Victim Support was also there. We were both in the room when he was called a layabout and a waste of time. He was a victim who had brought a harassment case, and that happened at the appeal. That man had previously been suicidal, and there had been a range of other issues. He was totally devastated when he came out of the court, and he wanted to take forward a complaint about his treatment. His representative from the PPS arrived. He had never met her before. She had not read the case, and he felt that she was not prepared to go into court. When he went in to appeal the case, he was in the box for an hour and a half. He was not prepared to go in and had not been told that that was going to happen to him. He was totally insulted. When he was coming out of court, someone said that that was par for the course for that particular magistrate. There is a big glass box in the middle of that court — court 4 — and the acoustics make it difficult to hear for victims, for witnesses and for me, who was sitting there to support him. He could not make eye contact with me either. He said that the layout blocked his view and that he felt really isolated.
784. That is only one example of many, and we almost know which magistrates will do that before we go into court. It happens throughout Northern Ireland. That is totally inappropriate, and, when we use the mechanism to make a complaint about any such issues, we hit brick walls. Some of the complaints are about the lack of information with which the victim's own solicitor provides them.
785. We have had a lot of women who were really traumatised by the recent events involving a certain local solicitor. You may have heard about it in the media. I have been raising the issue when victims' own defence is not good and when they have not been getting information. For around 10 years, I had been raising issues about that solicitor, and we sent droves of victims forward. The Law Society has now moved in, but it has taken a long time. When I



- raised the issues, I was told that surely those people could get another lawyer and could sue the solicitor if they were not happy. That incident and the lack of intervention has traumatised quite a lot of victims. We should look at what happened there and at how many victims have raised complaints in the past so that we can consider how we might provide remedies. We should also look at regulation of solicitors.
786. **Ms S Reid:** I go back to the point that I made in my opening comments about the need for this to be a core part of continuous professional development for all the professions. I wonder whether it is a by-product of a system that is, by design, objective and very logical. The call that we are all making is for a recognition of the emotional impact. Although, technically, it is not the victim's case, the experience is the victim's, and the system needs to respect that. That is why we are calling for a change and a shift in behaviour and attitude that starts to treat victims' understanding as being important and not just as a way to avoid a complaint or, indeed, to do them a favour. Such a change must recognise that each victim who understands and values the process is another citizen who has confidence in the criminal justice system.
787. Just to echo everything that has been said already, one lady whom we recently supported in raising her issues with the Public Prosecution Service had a meeting with the senior prosecutor. After the meeting, the prosecutor said, "When I reviewed the case, it was technically perfect, but I did not realise the effect that it had had on the person until I met her face to face." That is the key difference. The process may be technically proficient, but the impact, and the emotional impact, that it has on people needs more attention.
788. **Ms Janique Burden (National Society for the Prevention of Cruelty to Children):** I would like to back up what Susan said. I also want to make the case for children. You are talking about children in an adult world who are giving evidence in an actual situation and the training that is required for that.
789. I will use an example, as colleagues have done. I had a child who went in with her teddy bear. The teddy bear was under the table. She was giving evidence across the live link and was asked to remove the teddy bear in case it influenced the jury. Therefore, we are talking about a child under the age of 10 whose teddy bear was removed. She was not able to have it with for comfort. Examples such as that show that we do not understand how children are dealing with this.
790. Another aspect is that training is required. The attitude to children is significant. A lot of the time people say, "Children lie." That has been said to me by a judge. What chance does a child have if the feeling is that children lie? The process that children, and all victims, go through to get to court is quite significant. They have to tell that story several times before they get there. They probably have to tell it around six times, yet people still go into court believing that children will tell lies.
791. Child development is important. There should be an understanding of what children understand. A lot of children come away very distressed because they have been called a liar. Children do not understand the nuances or the adult language. They come away highly distressed if they are told that they are a liar and that they are not believed.. That needs to be addressed through training and understanding of child development.
792. **The Chairperson:** Just for the record, you are the manager of young witness service?
793. **Ms Burden:** That is right.
794. **The Chairperson:** Do members want to pick up on any of that? If not, we shall move on.
795. We move on to our next theme: participation in the process, including victim impact statements and reports. I will turn to Women's Aid first in this area.

796. **Ms Conway:** The opportunity to make a victim impact statement is rarely offered. When it is offered, or if our agency is supporting a woman through the criminal justice system and we ask the prosecutor whether it is permissible to have a victim impact statement, it has always been accepted by the court, both at lower court and Crown Court levels.
797. It is empowering for the victim. The victim sees it as her way of getting her voice out there. In one case, a couple of years back, the media also picked up on the victim impact statement, which had not been instigated by the PPS. The victim had asked for it to be included. The media picked up on the comments, and it was reported in the press. It helps to let the rest of the world know about the impact of crime on victims.
798. Other examples of participation that are perhaps currently lacking include consultation. As other people have said, when charges are dropped, victims are not consulted, or when lesser charges are accepted, the victim is very often the last person to know that the prosecution is proceeding just with your rape, rather than with your rape and buggery. There is no explanation offered or consultation undertaken with the victim. There is a lack of participation for the victim.
799. **Ms S Reid:** The first thing to say is that we really welcome the fact that work is ongoing to establish principles and context for how victim impact statements and victim impact reports can be developed. There is a little bit of confusion in the system as to how they are initiated. There is currently no format for how they should be constructed.
800. As to the efficacy, there is evidence to be learned from other jurisdictions, such as England and Wales. Some of the Committee members last week heard directly from people who had experienced a type of process of developing a victim impact statement.
801. I want to make only one point to build on that, because I am conscious of time. Although there is almost an intuitive sense that it is of benefit to the victim, there also needs to be equal weighting applied and consideration given to how the process of creating a victim impact statement for individuals can make them get in touch with very powerful emotions that may have been on some form of hold during quite a long process while they have waited for the case to get to court.
802. Therefore, support and appropriate consideration needs to follow after the victim impact statement has been taken, and due consideration must be given to the individual's or the individual's family's understanding of how that statement will be used and what exact effect it will have on decision-making in the court so that, where possible, any possible feeling that they have not done a good enough job on behalf of their loved one through the statement — they have been bereaved — is mitigated if the sentence is not what they had anticipated. Indeed, the process should deal with the fact that different individuals have different abilities when it comes to articulating emotions. The system should not inadvertently be more empathetic or responsive to individuals who are better at articulating and individuals who, on their own journey of healing, are at a point at which they can articulate the emotional impact of the crime against them.
803. We urge the system to ensure that the reports and the professional assessment of the impact of crime are not just used in the court system but are used to pick up needs that might be met outside the criminal justice system where there is need for further therapeutic intervention or support for a child or an adult. That should be picked up and acted on.
804. **Mr H Campbell:** I will make up for the last time, Paul, with miscellaneous points. One theme is the concern that victims' needs are not dealt with adequately because criminal justice agencies have a narrow view that a law has been broken rather than a perspective that human beings have been harmed. As I said earlier, we should upscale the use



- of alternative dispute resolution processes, particularly for disputes in neighbourhoods, which are often nasty, almost impossible to police and harm loads of people, not just the direct participants. There is a cycle where the victim from one week becomes the perpetrator the following week. You have very good evidence of effective practice in that area through Alternatives and CRJ to draw on. That should be upscaled to provide an alternative way of participating in dispute resolution.
805. There is the issue of training police officers, who are often first on the crime scene, in how they listen to and record the victim's experience. They should realise that it is not just a moment for collecting evidence but the first opportunity to offer or deny empathy to the harmed person. The law agencies also need to understand that there is a circle of people around the direct victim that has also been affected and can be engaged with to develop support for the person who is most harmed.
806. We have a different take on victim impact statements. Let us go back to this idea of sentenced prisoners. We believe that all sentenced prisoners should be in a process in which they are required to develop their sensitivity towards the impact that their behaviour had on the people most affected. They will all come back out into society, and the idea that they should spend endless amounts of time in prison lagging around and not thinking about those whom they harmed belongs in another era. It is not for the modern service, and it does not meet victims' needs.
807. **Mr A Maginness:** Thanks to everybody for their contributions. What do the various organisations feel about the level to which a victim impact statement should be permitted in a court? Should it be in all courts at all levels? Who should edit the impact statement?
808. **Ms S Reid:** Can you say a bit more about what you mean by "all levels"? Do you mean different types of court or categories of crime?
809. **Mr A Maginness:** Do you believe, for example, that victim impact statements should be confined to the Crown Court or to the Magistrates' Court as well as the Crown Court? What is your view on that?
810. **Ms S Reid:** We would not have a view that would be as generous with regard to court. We would want to go back to the needs of the victims and their need to have the impact expressed into the system. The balance would then be to try to make sure that doing that did not delay the process further. Sorry, will you repeat the second part of your question?
811. **Mr A Maginness:** Who should edit the impact statement?
812. **Ms S Reid:** It should not be edited, but the format should be clear. That should be a clear part of the communication and guidance. There should be guidance on the format — a pro forma, if you like — for what the impact statement should cover. The person making the statement should be supported in laying that out. That would be the issue rather than it being edited.
813. I suspect that part of your question links to the other side and the human rights issue of that information being made available. Any issues about inappropriate disclosure of information or any statement that the victim would want to make that may be inappropriate in a court case should be dealt with in the guidance and the format of the impact statement itself.
814. **Mr A Maginness:** Yes, but somebody has to do that, before it gets to a judge.
815. **Ms S Reid:** Yes.
816. **Mr A Maginness:** Well, who does that?
817. **Ms S Reid:** Oh, I see. I beg your pardon; I did not understand that that was the question. That is a role that could be undertaken by an organisation such as ours, and we would be interested in developing that.
818. **Mr A Maginness:** Thank you very much.

819. **Mr McCartney:** I thank people for their contributions to date. We have now covered four themes. Our next three are compensation, barriers and delay, which are a bit different from what we have covered up to now. If someone was asking a question in the abstract and you were asked who in the system is responsible for outlining to victims the roles and responsibilities of the various aspects of the criminal justice system, what would the answer be?
820. **Ms S Reid:** That is a really hard question. The answer would be that each organisation and agency takes responsibility for its bit and that is the problem in itself. No organisation is resourced to travel the journey with the victim from end to end, and that is a key point.
821. **Mr McCartney:** Pam summed up the picture that has been painted. Nobody in the system would have wanted Pam to feel that she was bullied and abused, but that is how she felt at the end of the trial process. If the process to explain the system is disjointed, the outcome will be disjointed.
822. **Ms S Reid:** Absolutely. That is part of the thinking behind the ISVA role, the IDVA role and the advocacy proposal. The intent behind that is that there would be someone to travel with from end to end, so that it is not left to the people themselves to become some sort of expert in the criminal justice system. Rather, somebody else is travelling with them, helping them to understand, when they are ready, in a language and communication style that suits their needs.
823. **Mr McCartney:** Pam talked about the need for an advocate. Patrick said that, at a particular time, there was a focus on hate crime and the PSNI introduced a liaison officer. There were then other demands and competing demands. Marie talked about the domestic violence liaison officer in Foyle, which is good and positive. However, if a different demand is made on the PSNI in one year or two years' time, that is not a statutory position, and it can be changed by the priorities. Whatever the local commander has as his priorities may reduce that to a secondary role. It is a question of how we pull that together and put it on a statutory footing.
824. **Ms S Reid:** The key theme is consistency across agencies. In addition, despite the best efforts of the organisations and agencies, those efforts end at the boundary of an organisation or agency. That is where things have the potential to fall down.
825. **Mr McCartney:** OK, thank you.
826. **The Chairperson:** Will you expand on the point about consistency, Susan? A number of submissions picked up on the fact that the standard of service varies across agencies. Are there areas that you would like to highlight as an example of where that standard varies?
827. **Ms S Reid:** The point that Victim Support was trying to make — I will leave other organisations to speak for themselves — is that the way in which different organisations and agencies are structured across Northern Ireland can lead to initiatives that have the same title being delivered operationally in significantly different — subtle but different — ways. Furthermore, Raymond has just made the point that there is a difference geographically. There is, to use the cliché, a postcode lottery whereby some geographical areas, because of initiatives through pilot projects, will have additional services that are not available in others. That is how I would broadly summarise it.
828. **Mr Yu:** I would argue for consistency between the different agencies. I think that the Criminal Justice Inspection does a very important job in that it makes sure that there is consistency. It publishes different thematic reports on different types of crime along the same system, starting with the police and going to the endgame of policing and probation. So, each of those agencies has its responsibility at each point in time. I would like them to keep going through that process and to make more

- use of the CJINI's thematic report as a benchmark for different types of crime.
829. **Mr Dickson:** To assure that consistency, do we need a statutory victims and witnesses charter that all the disparate bits of the justice system have to sign up to and is a standard that they must meet?
830. **Ms S Reid:** I think that a charter alone will not produce that —
831. **Mr Dickson:** As a starting point?
832. **Ms S Reid:** I would argue that it needs to be supported by a system that consistently collates the actual experience of victims and witnesses. I suspect, and I hope, that what the Committee is hearing this afternoon is how different the system looks through the eyes of the victim and the witness. That is what we need to embed. What we were trying to call for in our request is that, as a matter of core business, each organisation and agency has a requirement to monitor the experience of victims and witnesses, and that becomes part of each organisation or agency's key business in terms of their own sense of quality. Yes, we have a code of practice. However, to take that to the next level, it needs to be monitored in respect of its impact on the actual experience of victims and witnesses.
833. **Mr Dickson:** Should that not be converted into a charter of rights for victims and witnesses?
834. **Ms S Reid:** I would like to sit here and say yes, but, although my understanding of criminal process and criminal law is limited to say the least, I appreciate the complexity and the number of variables in any case. I do not want to sit here and say that I understand that it would be easy to come up with particular standards that could be applied in every set of circumstances. I would rather that we put our collective energies into trying to make some of the attitudinal and behavioural change and to provide the information and support that, I think, we are all calling for this afternoon.
835. **Mr Dickson:** Those changes will not come about unless they are underpinned by some statutory regulation.
836. **Ms S Reid:** I would like to hope that the system would change without a statutory requirement to do so. If we find, however, that we cannot motivate the system to change without that, the answer is yes.
837. **The Chairperson:** I wanted to touch on that point later, but I will pick up on it now that we have come to it. We may come from a perspective that, in this legal world, having legal requirements may be the only thing that changes it. The representatives from Women's Aid said that they were disappointed that the code of practice was not on a statutory footing in your submission. Hugh referred earlier to the European directives on this issue. Hugh, do you want to comment on this issue? I will ask Women's Aid to comment as well.
838. **Mr H Campbell:** I suppose that from our end, because we are not part of all your deliberations, we are not sure to what extent you have reflected on the efficacy of the code of practice that we have in Northern Ireland or where you are going with the European directive. As a slightly different take on this, from where I sit in a university, it seems pretty clear that, if you did not have the participants in the voluntary sector working directly with the victims, you would have a much harsher experience. So, there is also something about maintaining government support for those organisations or, if you want to improve services for victims, looking at how you upscale the work that those agencies have done. I am guessing that documenting that work would be part of those agencies' submissions to your Committee.
839. **The Chairperson:** Thank you, Hugh. Turning to the Women's Aid representatives, I picked up in your submission that you were supporting formal and legal recognition of the victim in criminal proceedings.
840. **Ms Conway:** Yes, everyone knows the roles of the defendant, the judge and

- the prosecutor. If there was a definition of a victim and rights attached to that, it would greatly improve the lot of the victim going through the system. I hear what Sue is saying about trying to change the situation through persuasion. Maybe there could be a two-pronged approach; backing up her approach with the force of statute might bring about change a lot quicker.
841. **Dr Bunting:** I want to pick up on the idea of a statutory victims charter from an NSPCC perspective. As far as I understand it, there is one in England and Wales. Various pieces of guidance and legislation have developed, and we have followed suit in many ways. Research carried out by the Nuffield Foundation and NSPCC looked specifically at the requirements in the legislation, the victims charter and the things that were set out as the basic standard of treatment for victims. Their research looked at the experiences of young witnesses across the UK. They found that, despite having those things in place, the experience on the ground was still a far cry from what had been set out.
842. I want to reiterate Susan's point. There is always a tendency to look for legal solutions, but, at the end of the day, what victims really need is support on the ground and people who will work with them on a one-to-one basis. I am concerned that we would put something on a statutory footing and think that we had resolved the problem. We need to have both those things. If there is not willingness in the criminal justice system to do that, perhaps we would move towards a charter. However, information and support on the ground are probably greater priorities that we need to focus on right now.
843. **Ms Burden:** I will pick up on that and on Susan's point about monitoring. Again, the issue is the persuasion element of each organisation. Should there be monitoring? Yes. Let us take it a step further: when you monitor, review and see that there are gaps, the training that we talk about constantly should be in place. There should also be some kind of obligation within the aims and objectives and action plans of a service, whether it is statutory or voluntary. We should then address the gaps and somehow build in a module that ensures that the training is there and that it keeps being reviewed.
844. **The Chairperson:** Thank you; that was useful.
845. I am going to move to the next theme, which is compensation. I come to Pam in the first instance.
846. **Mrs P Surphlis:** Compensation and the submission of an application is one of the most soul-destroying episodes in the journey of a family. The consideration of such claims has a judgemental aspect attached to it. If a victim has a criminal record, it affects the amount of the award. In the case of one family I know, the mother lost a third of her claim and the father also lost a third because it was claimed that the young man had picked up a knife to defend himself. With Victim Support's help, the father challenged that, but the mother did not have the strength to do so. The father was given the full award and the mother was not; her solicitor was not versed in the compensation scheme.
847. We are also terribly concerned that, when the scheme was put together in 2002, the award for a fatal injury was £12,000 a claimant. Two years ago, that was slashed. If there is one claimant, the award is now £11,000, but, if there is more than one, it is £5,500. That is very unfair for families that are in dire straits. There was a recent case with the compensation agency. A trial had not begun in that case, but the inquest had taken place. Two days after the result of that inquest came out, the mother of the young man who was killed received a letter from the compensation agency, which stated that she had been denied compensation because it was not a crime of violence, even though the police were still treating it as murder. She was totally distraught. Her son was murdered, but the compensation agency told her that he did not die from a crime of violence.



848. The legislation has changed. I have taken any of the complaints that we have received to the Victim Support advice workers in the compensation scheme. Every time that they come back, it is due to the legislation. It is for you to look at, but the legislation should be looked at and reviewed in a more caring way and in a way that is more compassionate to the needs of bereaved families. One family that I dealt with was not informed about the scheme until after the trial had taken place. The mother had gone in to serious debt by taking a loan to pay for her son's funeral. She was not able to work after the event, and she got in to debt problems. We ask for the compensation to be looked at from a more compassionate point of view.
849. **The Chairperson:** Thank you very much.
850. **Ms S Reid:** One of the more positive aspects of the compensation scheme for victims is that of the burden of proof. The burden of proof in a criminal injury claim is the civil burden of proof, which is lower than the criminal burden of proof. For that reason, many victims gain closure and a sense of justice through the compensation process that they may not have received through the court process. However, we want to flag up a few points. Some of them echo the points that Pam has just made.
851. We find it strange that Northern Ireland does not include the tariff for nervous shock, which the Criminal Injuries Compensation Authority (CICA) scheme in England and Wales does. We draw your attention to the two-year time limit for compensation and how that potentially sits at odds with the current timescales in the overall system. Another pattern that we have noticed is that, although we have a 30% success rate in the initial applications that we make on behalf of victims of crime, we then have a 30% achievement at the review, which is at the written challenge stage, and a 50% success at appeal. We wonder whether that indicates a chance to streamline the system. If there were a slightly different attitude at the initial application stage, there may be savings to be made throughout the process.
852. We also want to highlight the fact that there is currently no limit to the percentage of an award that a solicitor can request for representing a victim during the compensation process. In some instances, we have observed a charge of as much as 20% of the total award. That is in sharp contrast to our service; we take no charge for what we do in that regard.
853. There are a number of other points, but I am conscious of time. Rather than making this a case study of compensation, I will stop there.
854. **Mr A Maginness:** I thank Pam for her very eloquent analysis of the situation. Clearly, the present system does not assist victims as best as we could in this society. Of course, the system was changed in 2002 by a direct rule Minister as a cost-saving exercise. It was not changed to improve the service for victims. It was taken out of the courts because it was thought that the courts were too expensive, and it became a tribunal system. We now have a situation in which people are very largely unrepresented. If they are represented, there can be abuses in overcharging and so forth. We have a system that, I believe, is weighted against, not for, the victim. If we are, allegedly, putting victims at the very centre of the justice system, why do we not compensate our victims properly? We are not doing that.
855. You mentioned people who have been murdered, but it is worse for people who have been violently injured and, as a result, have lost their work and livelihood and all the rest. They do not get as much compensation as they should. The first six months are written off completely. If you do not report the crime in time, you get nothing. There is then a two-year bar on a claim after that. So, everything is weighted against the victim. It would be an inquiry all on its own, Chairman, to examine the compensation system.

856. Whereas there were difficulties and imperfections in the court system, we now have a barcode system for victims' compensation. If you have an injury to your arm, you get so much. If you have an injury to your head, you get so much. But if you have a multiplicity of injuries, they deduct and deduct and deduct so that you do not get full compensation for that.
857. I want to thank you for raising the issue and doing so very powerfully. Really, if we are going to get to grips with that aspect of things, we would have to go into the present system in tremendous detail, which would require almost a separate inquiry.
858. **The Chairperson:** I will move to the next theme. I know that earlier comments have touched on barriers to reporting crime, attrition rates and the collation of information on the experiences of victims and witnesses of crime. In addressing this theme, a number of submissions referred to the flawed nature of the Northern Ireland victims and witnesses survey and the fact that its budget for this year has been withdrawn. I will come to you on this first, Lisa. Will you touch on why you think that the survey is flawed?
859. **Dr Bunting:** I will try to be brief because we are getting a bit pushed for time. First, barriers to reporting: as we all know and as has been discussed earlier in the meeting, what we know from police statistics and the cases that come to the attention of the criminal justice system is the mere tip of the iceberg. There are particular issues around children and young people coming forward to report crime and abuse. We know from maltreatment research that, across the UK in 2000, only a quarter of all those who had experienced abuse told anybody about it when they were a child, and very rarely would they have been in contact with the police or social services. The extension of the British Crime Survey to include 10- to 15-year-olds also highlights the fact that, in the vast majority of cases, they do not bring any criminal activity against them to the attention of police.
860. There is an array of reasons for that. I will concentrate on maltreatment, in particular. Under-reporting may be due to the age of the child, their ability to understand what is happening to them and that it is wrong and to verbalise what has gone on. Their relationship with the offender is also key, particularly in cases of intra-familial abuse where the abuser may well be someone they love deeply. It could be a relative or someone they know. They are scared of what will happen when they tell someone — that they will not be believed; that it will ruin their family — and about what will happen to the information. A lot of the time, what children want to happen is for the abuse to stop, but they are scared of what will happen when they engage with the system and their right to confidentiality is taken away as they go through the criminal justice system.
861. Thinking particularly about sexual violence, the degree of sexual violence against older teenage girls and the issue around the sexualisation of children and teenagers is at such a state that it is in danger of becoming a normative thing. So much so that, quite simply, young girls will not report it because it is so common in their friendship circle that it is almost a rite of passage. That is a serious issue that needs to be addressed. There is also the fact that many of the people who offend are sitting in the same classrooms as them or hanging round in the same clubs and youth clubs. That is an issue that we have yet to really address at any meaningful level.
862. To increase reporting, we need to provide a much safer and more encouraging environment in which young people can come forward. We need to raise awareness, particularly for younger children, about the issues, including those around sexual violence and the stereotypes that we have, to highlight very clearly that such crime is wrong and that there is something that you can do to stop it. The development of preventative education in schools is a key way of doing that, and we very much



- welcome the developments that the Department of Education is involved with in primary schools. However, we think that there is still a big need at post-primary level, particularly around sexual crime and violence against young men in those age groups. That is where and when those rates really soar.
863. I move on to the issue of attrition. Earlier, I highlighted the fact that few cases actually reach the court stage and result in a conviction, and that is the same for sexual crimes and violent crimes. There is a huge array of reasons why that is the case. Key to that is lack of evidence. Insufficiency of evidence and issues around the quality of evidence are always going to be central to those kinds of decisions.
864. We also know from the research in this area that the characteristics of the case have an influence on detection rates. We see much lower detection rates for cases involving very young children. Reporting delay is a massive problem. Historical cases of adults reporting sexual violence that happened to them in childhood have the lowest rates of detection. There are various areas that we need to think about and to monitor in order to determine whether we can develop and strengthen those kinds of cases.
865. We have talked about a postcode lottery. The police district in which a crime is reported has an impact on detection rates. We are not particularly sure to what extent that is influenced by variations in characteristics or in practice. From English research, however, we know that there are particular issues around the quality of achieving best evidence interviews that we need to explore in Northern Ireland.
866. Victim withdrawal is a big issue. If we want to deal with attrition, that is the key place to do it. That is where avoidable attrition exists. We do not currently have a handle on how many victims are withdrawing from the criminal justice system. Prior to 2006, that was counted as part of recorded crime and would have shown us that in 15% of detected cases the victims withdrew their prosecutions. We need to start counting that kind of information again, monitoring what is happening, and looking at the variations in the different cases that we see to determine to what extent they are being detected and to what extent they result in convictions. That can provide us with information to develop policies to address attrition in a meaningful way.
867. As we have all said, a key part of that will be providing support from the point of report onwards. Many people disengage because they do not know what is happening. They are not in contact with the criminal justice system; they do not feel believed and supported; and they are not going to go ahead with the prosecution. The introduction of facilities such as the sexual assault referral centre is really positive. There needs to be more community-based support for victims.
868. We can improve and make better use of monitoring. We can change the way in which we collect information on recorded crime. However, as Susan said, we also need to listen to victims. If we want to understand the reasons for victim withdrawal, we need to talk to victims and their families. We need to understand what it is that they need from us to help them to engage with the system in a way that minimises potential damage to them.
869. **The Chairperson:** Thank you. Susan, may I come to you? You may want to comment on some of that, but you said that the current Northern Ireland victims and witnesses survey did not include sexual offences, fatalities and domestic violence, which meant that there was a question mark over the survey.
870. **Ms S Reid:** Yes. We recognise why the current format of the survey did not cover serious crime and that it would not be appropriate to, as it were, cold-call people who had been through crimes of that nature. We would go further, however, and call for some sort of process that takes feedback from people. We have heard very eloquently

- from Pam this afternoon that there is a need to collate the experiences of victims of crime, across all categories, in order to be able to monitor the impact that the system has on them.
871. I will make two quick points in regard to the overall heading of this section. It is a challenge to our political leadership that, if the system were to overcome the barriers to reporting crime, there will be a concomitant effect of increased reported crime figures. That is a big challenge for society, with the recognition that fear of crime is high in this society. However, we have also heard compelling evidence this afternoon about why we need to encourage people to report crime.
872. The other point has already been eloquently covered by Lisa. I echo what she said. If we cannot continue with the Northern Ireland victims and witnesses survey (NIVAWS) next year because of budgetary reasons, we need to make the case that something has to be put in its place. I know that that will be given some consideration, and we welcome that. We need to value and afford systems that collate the experiences of victims and witnesses so that we can constantly monitor the impact. Otherwise, any investment that has been or is going to be made cannot be truly evaluated as to its impact on victims.
873. **The Chairperson:** Thank you, Susan. Do the Women's Aid representatives have anything further to add?
874. **Ms Brown:** I would reiterate the two points that have been made. I also think that we have organisations that could very quickly pull together victims who could talk about the impact and feel that to be an empowering process, provided that, when they did so, they were listened to and the relevant changes were made. That is important.
875. We would welcome SARC in Northern Ireland, but we need to have community-based services. There are none. There are no pathways for you if you are sexually abused or raped. We have criminal justice workers within police stations in some areas, and those workers are getting the relevant information. We are getting disclosures about rape during the incidents, which had not happened before. Those workers are bringing more and more victims through the process and victims are more willing to engage with the process. Victims will do that where they feel supported. I would like to see that across Northern Ireland.
876. I would like to see more sexual violence services. We have very worrying stats about rapes on a weekend basis. That is happening locally and, I am sure, across Northern Ireland. Some women say that they are going nowhere because of barriers such as travel and having to sit waiting for nine to 10 hours after they have been raped. We used to have Maydown. We have lost that now and its local services. I have had two victims come through. One actually went to the local newspapers because she wanted to talk about her experience of sitting for nine hours in a police station in Belfast after she had been raped. She eventually withdrew from the process; she found the whole process and her treatment really, really poor. She found the police officers who brought her to Belfast very supportive, but said that she was put in a car with two male strangers. What was her small talk going to be for nine hours while waiting for those services? We used to have a service in Maydown. Now that that has been pulled, we are going backwards instead of forwards. That is a huge barrier.
877. Sexual violence and the crime of sexual violence need to be reviewed across the services. We need to make improvements across all the agencies around sexual violence and the support of sexual violence victims, from childhood through to adult victims of crime. There is a lack of communication across the legal system with regards these victims. Most of them fall out of the system because they find the process too difficult.
878. **The Chairperson:** I am going to go to Patrick to finish off on this section, and then I will call Colum.

879. Your submission touched upon how forensic nurses operate in the Republic of Ireland. Can you comment further on that?
880. **Ms Brown:** Yes. One reason that Maydown was pulled was the lack of forensic medical officers. I went with the commander at the time to look at a practice in the South where forensic nurses had been trained up to do the necessary forensics. That seems to be working in the South. We wondered why that process was not happening in the North. Even when we did have a forensic medical officer, we had only one, who said that she was covering all the services. We pointed out that for 40% of the time she physically could not be there. So, 40% of victims did not have that service when they needed it.
881. Sexual violence is one of the most heinous crimes. The understanding and support needs to be there, even very basic practical support to tell people what to do, when to shower, that they can shower and to get them to a unit. It is very basic stuff. There is no pathway here. What happens if you are raped at 2.00 am on a Saturday? Who is there to tell you what to do? Recently, a lot of teenagers have been raped in this town. There have been difficulties around evidence gathering and convicting rapists. That has to be a whole inquiry in itself.
882. **Mr Yu:** I would like to highlight a couple of situations that affect people reporting crime. As I mentioned earlier, first and foremost, it is about the fear of reprisal. That is one of the key things that deter people from reporting crime. There are also scenarios in which they report crime, but there is no follow-up from the police and no one to inform them about what happens next. It is quite a common experience for victims of racial hate crime.
883. There are also some scenarios in which the police officer does not see it as a crime at all, or the victim did not detail what happened. We come across cases in which the police officer has told them that there is nothing they can do. The current hate crime policy across the PSNI is victim-centred, which means that it is the subjective test from the victim. If the victim says that it is racially motivated, the officer must record everything and then use their own objective and professional standards to determine whether it is a racial hate crime, rather than just telling the victim at the very beginning, without even starting the interview, that it is not and asking them to go. Those are quite common experiences faced by people from ethnic minorities.
884. Another issue is about incidents that they report at different times. A lot of low-level of intimidation — like banging a door or putting a firecracker into a letter box — does not just occur once but multiple times. There is also a lot of other harassment. In our case file, 30% of cases involve people who experience so-called multiple-incident cases, but when they go to the police station they see a different officer every time, and they are treated as separate incidents. There is no one to collate the incidents. This, of course, is very important. This time they do something that is not harmful, but maybe next month they will burn your house. This time it is a firecracker, but maybe next time they will get something more harmful. That is why people have experienced that kind of difficult situation when they go to the police station.
885. There is another major problem, also related to prosecution. In most racial hate crimes — 99% — there are no local witnesses who volunteer to go to the police station, even if they have witnessed something happening. As a result, when you look at the prosecution cases, you see it is very rare to have witnesses. Over the past three years to five years, there has been a little bit improvement, partly through our support, because we detail everything in the hope that they can gather more evidence before they go to the police station. However, there is still a long way to go in order to get all cases prosecuted.
886. **The Chairperson:** Thank you very much, Patrick.

887. **Mr Eastwood:** On Monday, the Assembly discussed the Barnardo's report on the sexual exploitation of young people in care in particular. To be honest, the figures were shocking, not just those on young people in care but people not in care as well. One of the things that the report pointed out was that there were huge numbers of young people who did not see themselves as victims, and therefore they were not reporting the crime, because of their relationship with the perpetrator. Do you want to comment a bit on that, and how we can get around that fairly big barrier to people coming forward?
888. **Dr Bunting:** That is an increasing problem. A large part of it is around the increased sexualisation of older children and younger teenagers. There is a perception out there that it is almost becoming the norm, and there is little point in reporting it because it is just one of those things that happens. The major way that we need to address that is through education in schools. There are also broader societal things. We need to be sending very clear messages, whether that is done through the development of campaigns or through media and responsible reporting, that those things are wrong and that young women have the right to decide what happens to them and to their own bodies.
889. The difficulty is that that exploitative relationship has become so pervasive and so bedded down that it is very difficult to change that. The only way in which we are going to do it is to adopt a whole-society approach. We need to be getting into schools and we also need to be educating parents. I am sure that people have heard that, bizarrely, there are pole-dancing kits for six-year-olds and "Porn star in the making" T-shirts for four-year-olds. Those are real things that are happening in our society. If we continue to tolerate this — I know that I am starting to sound like a zealot — and allow such inappropriate sexualisation of children, that is where we will end up.
890. **Ms Burden:** I want to give you an example. A few years ago, a young girl came to court in order to bring a case of buggery against her cousin. Up to that point, she and her cousin had been kissing cousins and were, quite happily, meeting up on Sunday afternoons and fooling around. However, she was quite clear that she had said no to that aspect of their relationship. One of the difficulties with the case relates to the fact that it is a standard norm nowadays for teenagers to send quite explicit, hardcore porn on their mobile phones, which they have access to through the internet. The girl involved had quite a lot of hardcore porn on her phone, which he said she had sent to her friends a lot. The case did not proceed because her prosecution felt very strongly that her phone would be used as evidence of her consent on some level. I think that that is an absolute classic example of what Lisa is talking about: it was normal among young teenagers to send round such material, and that kind of behaviour is acceptable.
891. **Ms S Reid:** I want to build on that point by looking at a slightly different aspect. Women's Aid, Victim Support and other organisations have looked at the most recent thinking around the psychological impact of sexual violence. One of the things that we have been made aware of through that work is how we are all attuned to think that the common response is fight or flight. However, the most common response is actually to flop or freeze. If you do not understand that — I am not going give you a lecture on brain chemistry now — and you have been sexually violated yourself, then you, like everybody else, will wonder why you did not fight back and why you, in a way, went along with it. When it is explained to you, you understand that you were surviving and that that was the mode you were in.
892. One of the patterns we see when people give their evidence — Lisa alluded to this — is that they withdraw and start to doubt their experience. They start to wonder, "Was I actually raped? Maybe I colluded with it in some way."



- A whole layer of awareness raising and understanding is, therefore, needed right the way through organisations and agencies and among citizens in our community.
893. **The Chairperson:** OK, thank you.
894. We will move on to the next and last theme, which is delay in the criminal justice system. Susan, will you kick-off again?
895. **Ms S Reid:** First of all, we absolutely commend the work that is in progress to try to address such delay. However, that effort will be measured only by the change that it effects in the system. We want to make a point about the cost of delay to not just the criminal justice system but other systems. As far back as the 1980s, I can remember a study done by John Yates, in which he made the connection between waiting lists for ophthalmology and orthopaedic appointments in the health service and the fact that expert witnesses had to sit around in courtrooms for such extensive periods of time. I also want to make the connection between the delay in the court process and the conflict with the compensation deadline. The pattern we have observed is that the defence uses the fact that a victim has applied for compensation to infer that they are in it for the money, and that is almost like a slur on the victim.
896. Pam mentioned the study done by Louise Casey's team. I think that it is quite shocking that a family bereaved by murder or manslaughter might have to bear the personal cost of, on average, £37,000 in order to follow the case through. That is just appalling.
897. Furthermore, a lot of the conversation around delay does not really adequately address the emotional impact. Time and time again, we hear from people who say they feel frozen in time. They are waiting for the process to finish so that they can even begin to grieve and to process the emotional impact of what has happened.
898. Last, but by no means least, I think that we would like to understand more about the possible implications of the suggestion made in the recent CJI report about statutory time limits. If that course of action is implemented, we would like to set down a marker to say that there needs to be due caution and an assurance given that a failure to meet a time limit will not then result in a victim being penalised because the case cannot proceed.
899. **Dr Bunting:** Delay is a huge issue. It is ongoing and several inspections have highlighted that. It seems to be less amenable to change than any of the issues that we talked about today. It is also strongly associated with victim withdrawal and attrition rates.
900. For both child and adult victims, delay impacts on their ability to access therapeutic support. They can access such support while they are waiting for a case to come to trial, but they cannot talk directly about their own victim experiences. Delays are often long, and we know from our own therapeutic staff that there can be delays of up to three or four years, sometimes five or six years, in the most protracted cases. That is a long time in which young people are unable to talk directly about what has happened to them, and that has a hugely negative impact on them.
901. We want to see processes being put in place between the police and the PPS to expedite child cases. There are issues that are particular to children about the length of time that it takes from when they report a crime to when they go to court. They may have changed and aged significantly in that period, and that has huge implications. The child who reports a crime at age nine is a very different witness when they take the stand aged 12 or 13, and, because they are a little older, jurors are influenced to treat them slightly differently and to look on them with a more sceptical eye. That is peculiar to children's cases.
902. At court, children often have to wait several days before their evidence is heard, which increases their stress and anxiety. We want to see greater consideration being given to children spending as little time in a courtroom

- setting as possible. One way that that could be done is through the development of special children's hearings days. Those would allow all the cases to be heard together. They would also be able to prepare all the evidence that is required and the TV live link, and that would be a big improvement.
903. **The Chairperson:** Thank you. Finally, we have Women's Aid.
904. **Ms Burden:** Can I just say something first? A few years ago, we visited a court in Liverpool where the judge listed children to give evidence on a set day and at a set time. That may have been the court that you worked in. The rest of the case was managed around that, and it seemed to work very well.
905. The Lord Chief Justice previously directed that children should not appear on Mondays, when juries are sworn in and legal arguments are made, and that they should give their evidence the next day. I would really like to see that being taken forward and supported, not just for children but for vulnerable adults. The longer you wait, the more tired you get and the less able you are to give evidence. You are still sitting here listening to us at 4.30 pm and you are doing well. However, if you think about it, that is much more difficult for children. That would be a really simple directive: if there is a child in a case, they should give evidence only at a set time on a set day. The rest of the trial could work around that.
906. **Ms Conway:** I do not have too much further to add. I want to highlight that delay is a factor in attrition rates, particularly in cases of domestic violence. You should strike while the iron is hot, but if the police only send files to the PPS three or four months after the event, the opportunity is lost in getting the victim to proceed.
907. **Mr A Maginness:** I have a simple question: do you agree with statutory time limits? Susan skirted around that issue and has adopted a position of neutrality at this moment in time. Given the recommendations of Criminal Justice Inspection and those that are contained in the youth justice report and, to some extent, the Anne Owers report, it seems that those who seem to be expert in the area are looking towards statutory time limits because the voluntary time limits that we work under do not seem to work. I want to know the attitude of your organisations.
908. **Dr Bunting:** We at the NSPCC share Susan's neutrality at this point in time. We have adopted the attitude of wait and see. We would definitely not want victims to be burdened with any difficulties.
909. **Mr A Maginness:** I agree with you.
910. **Dr Bunting:** I am not 100% sure how that process would be taken forward without some kind of punitive measure or stance. We need to think about it a little more.
911. Are you aware of how it works in other areas where it has been introduced?
912. **Mr A Maginness:** No, but the basic premise is that it should not prejudice victims. Persons detained in custody could be released, and that might have consequences for victims and witnesses. However, it may have to happen.
913. **Mr Weir:** If I am picking you up right, I can see the neutrality in what you said. I am sure that any victims or groups that deal with them want as much pressure as possible in the system to ensure that matters are brought to court in timely way. One of the criticisms that we have heard is about the length of time that it takes to get a conviction. We saw that very clearly a couple of weeks ago, when a particular murder case in Northern Ireland came to a verdict on the same day as a case in England where the crime had taken place two years later. It took those two extra years to reach the point of conviction. On the other hand, there is the issue that, through a statutory 10-year rule, a case could fall. Obviously, we want safeguards to ensure that that does not happen. There could, essentially, be a form of automatic bail and you could have some very serious



- offenders released. I can understand from everyone's perspective that there is some nervousness around that. We need to approach that matter cautiously. I can see the desire to ensure access to justice as quickly as possible, that there is not undue delay, and that people are able to move on.
914. **Ms S Reid:** I did not intend to skirt the issue at all. Our experience is probably coloured by a recent case to do with statutory Bar time limits, rather than statutory limits on the courts. We were working with a young gentleman who has autism. We explained what would happen if he explained to the police officer that he had been assaulted on a night out with his friends. There was an error made. I do not think that it serves anyone to point fingers, but errors were made in the classification of the crime and in its treatment. The effect of those was that the case could not progress because it was time barred. Knowing that that individual is literally hitting his head off a wall with distress, because he cannot comprehend why what he was told was going to happen did not happen, colours my view and heightens my awareness of the consequences.
915. However, I offer a suggestion. It should not be beyond the ken of criminal justice system to deal with the possible consequences. Surely, there are ways to ameliorate the needs of victims in cases that have not proceeded and have been time barred. If we can think through the process to the end, time limits would surely focus the attention of the entire system and provide a rather strong incentive to make changes.
916. **The Chairperson:** Thank you. The last theme concerns other priorities. I know that time is pushing on, but there are a couple of points that I want to pick up on, which have not been covered to my own satisfaction. I will very briefly run through them. Lisa, the submission from the National Society for the Prevention of Cruelty to Children commented that there was:
- "little intervention from the Public Prosecutor."*
917. Can you briefly elaborate on that point?
918. **Dr Bunting:** That was a finding that came from a study on young witnesses that we were involved in with Queen's University. We interviewed 37 young witnesses who had given evidence in sexual violence, physical assault, and domestic violence cases. To be fair, many young people felt that they had been treated fairly at court. Most could list some negative experiences, but around 60% felt that they had been treated fairly enough, and around 60% said that they would give evidence again. So there was strong support demonstrated for the criminal justice system in that study.
919. However, there was a clear a minority of victims who felt that they had been quite damaged by the process. One young woman talked about being "destroyed". She felt that she had had very little help or assistance from her own barrister. Often, the judge might intervene, but there were quite a few cases in which parents and young people felt that little had been done by their own barrister to help them out. Often, the barrister had met the person only that day, and very little explanation had been given to them about what was going to happen with the case.
920. One point that stood out from the research is where young people reported that a barrister had made a big effort with them. The general point is the power of people: police officers, PPS prosecutors, and judges who go over and above what is normally required of them made a huge difference. A handful of people who had such experiences talked about having a police officer who was "one in a million", who would still call on them, even after their case was over, to see if they were OK. They are key people. Everyone has raised the human aspect today: people who make the effort to be friendly and to tell them what is going on. That makes a huge difference.
921. **The Chairperson:** Another comment was that therapeutic work was being delayed because of the delays in the courts.

922. **Dr Bunting:** Therapeutic work can be engaged in prior to a trial, but it cannot be done directly. They can talk about feelings and issues, but they cannot talk about the nature of the crime. If your case has been waiting several years, you are almost in a holding pattern with a therapist. You can talk about your anxieties and fears, but you cannot get into the nuts and bolts of what happened and how it is making you feel. Young people who are being subjected to very serious and ongoing intra-familial abuse might have massive issues to discuss and deal with. Unfortunately, however, the longer a case goes on, the longer they have to wait to access specialist support.
923. **The Chairperson:** Pam, your paper talks about understanding the sentences that are administered. Can you comment further on that?
924. **Mrs P Surphlis:** When the accused or the guilty party has served their sentence, in some cases there is a probation order. However, families are very confused about whether the person is on licence, on probation or what the terms are. The Probation Board's victim information scheme is very good in some areas; however, in others it is not so forthcoming. The victim or bereaved families are told that such knowledge is against the defendant's human rights, but they are concerned about their right to know that they will not walk into that person at some time — that they will not turn a corner and see them.
925. In one case, a defendant was released in a certain town after he had served his time. He followed the young brothers and sister of his victim round a shop, taunting them to try to get a reaction. They were very confused about whether he was on licence or on probation. The families would like that to be explained in a more timely and friendly way so that they can understand the implications and whether they have any input into the process. They make a victim impact statement about what they would like to see happen, but it is ignored.
926. **The Chairperson:** The Prison Service will inform a victim when someone is to be released or let out on parole in preparation for release. Is that helpful?
927. **Mrs P Surphlis:** Yes, except that they do not know where the person will be, although they know that they will not be allowed into a particular area in some cases. A couple of our cases that have been through that experience found it very positive. Information is everything to them.
928. **The Chairperson:** Susan, you have probably talked around my next point without mentioning the heading, which is "Care pathway". Can you expand on the care pathway for individuals in the criminal justice system?
929. **Ms S Reid:** It is another way of dealing with the issue of what people should expect at each stage of the process. Rather than thinking of the PPS as one part of the system, the Court Service as another, and the PSNI as yet another, it is about thinking of the process as a journey. Care pathway is a term used widely in health and social care services in thinking about things from one end of a process to the other. You try to decide where information can be shared across all organisations so that, for example, someone does not have to retell their story every time they move on to the next stage. It was used in health and social care, particularly in the development of cancer services, and the finding was that each bit of the system stood alone, rather than being joined up. The learning came from looking at it from the patient's point of view. We need to draw that analogy into the criminal justice system and look at it from the point of view of what it feels like to move through the different organisations and agencies, rather than just looking from the perspective of each organisation or agency.
930. **The Chairperson:** You mentioned input from other services on health and housing. We have touched on the provision of childcare. When you talk about health and housing, is that part of the witness care unit idea?

931. **Ms S Reid:** A number of us have touched on that today. Patrick made the point that, when somebody has experienced a crime, you can almost categorise their needs as financial, emotional, physical, psychological, etc. They may not want to live where they have been living, and they may have financial issues because they can no longer work. We need to try to look at the needs of the person in a holistic way, rather than just through the lens of the criminal justice system.
932. **The Chairperson:** The submission states that you want an end to oral evidence in committal hearings.
933. **Ms S Reid:** Yes. I would paraphrase that as our wanting to end the trial within the trial. Why should a victim have to go through the process of being questioned to reach a decision on whether the trial will proceed? Our understanding is that that has been done away with in England and Wales, so why does it persist here?
934. **The Chairperson:** Does anyone want to raise anything that you feel has not been covered?
935. **Ms Brown:** Judges need to be aware of the integrated domestic abuse programme (IDAP), which is run for men who wish to take programmes to change their behaviour. In some areas, men are not being recommended to it because the judges are not aware of it. Also, the bail conditions need to be long enough so that men can complete the programme. That is really important.
936. Homicide reviews have been sitting in the domestic violence strategy for five years now. I want to see that speeded up because a homicide review could possibly help with all homicides in Northern Ireland. We are looking at practice improvements. I worked with a family locally 11 years ago, and they still ring me to find out where the homicide review is, even though the perpetrator is getting out of prison. They were waiting to see what would happen and change in their case, and, as family victims, they would have loved to have given some guidance and feedback on what would have made their case different.
937. **The Chairperson:** Orla, you talked about a lack of awareness of special measures. Do you mean that people in the criminal justice system are not aware of special measures that can be made available to victims and witnesses and, therefore, do not tell them about them?
938. **Ms Conway:** Victims are not always aware that they are available. First, they are not always available for the asking, but victims are not always even made aware that it is a possibility. We hear from women that the PPS is sometimes reluctant to apply for them in domestic violence or sexual violence cases because they believe that it is a hard application to make. They are available as of right for child witnesses but, for adult victims, you have to make your case.
939. **Ms Brown:** They are not always there for child witnesses. The Causeway manager asked me to bring up the case of a 14-year-old who, for the sake of expediency in the case, was brought in to testify. That did a lot of damage to her. She was self-harming and has not really been right since. It was very traumatic for her, and special measures that should have been used were missed. It was a case of, "If you do not get in now, you may lose your opportunity and the case could be lost." That pressure should never be put on anybody. That should be managed in the criminal justice system.
940. **Ms Burden:** I have to support that.
941. **The Chairperson:** No one else has indicated that they want to comment further, so I will wrap up the meeting. I thank everyone who has come along today. I am sure that I speak on behalf of the Committee when I say that I have found the session extremely beneficial in getting a better understanding of the issues that face your organisations. I hope that you have also found informing us of all of that to be a helpful experience. Thank you very much.

## 19 January 2012

### Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)  
 Mr Sydney Anderson  
 Mr Stewart Dickson  
 Mr Colum Eastwood  
 Mr Seán Lynch  
 Ms Jennifer McCann  
 Mr Basil McCrea  
 Mr Alban Maginness  
 Mr Jim Wells

### Witnesses:

Assistant Chief Constable George Hamilton Superintendent Andrea McMullan	<i>Police Service of Northern Ireland</i>
Mr Stephen Burnside Ms Una McClean	Public Prosecution Service
Ms Marcella McKnight	<i>Compensation Agency</i>
Ms Maura Campbell Mr Declan McGeown	Department of Justice
Mr Peter Luney	<i>Northern Ireland Courts and Tribunals Service</i>
Mr Paul Doran Ms Roisin Muldoon Ms Rita O'Hare	Probation Board for Northern Ireland

942. **The Chairperson:** We will now formally commence the Committee's evidence session. In order to make best use of time this afternoon, the evidence event has been structured into two parts. The Committee will first hear from the PSNI, the Public Prosecution Service (PPS) and the Probation Board for Northern Ireland (PBNI). Departmental officials will also attend, with representatives from the Courts and Tribunals Service and the Compensation Agency. The format of the evidence session will follow the standard practice; organisations will have up to 10 minutes to provide a short presentation, followed by questions from members for up to

20 minutes. Hopefully, the evidence sessions will provide members with the opportunity to look into the issues that criminal justice organisations have raised in previous evidence sessions with advocacy and victims' representative groups and individuals.

943. For members' benefit, there is a paper detailing some of the key issues that have been raised at previous evidence events and which the Committee may wish to explore further. Obviously, members will have other issues outside of that which has been provided. There are also suggested questions that pick up on some of the key themes that a lot of the groups brought to our attention. They are there for your assistance, but they should not restrict you in asking any other questions. There are also submissions from the PSNI, the PPS, the Probation Board and the Courts and Tribunal Service. The meeting will be covered by Hansard, and the evidence will be part of our formal inquiry.

944. Let us push on; I invite the PSNI to come to the table to make its presentation to the Committee. I welcome Assistant Chief Constable George Hamilton and Superintendent Andrea McMullan. Thank you for coming along. The session will be recorded by Hansard, and the transcript will be published on the Committee's web page. I hand over to you to briefly outline your submission, after which I will open up the meeting for members to ask questions.

945. **Assistant Chief Constable George Hamilton (Police Service of Northern Ireland):** Thank you, Chair. I thank Committee members for inviting us and giving us the opportunity to be here today. You will be aware that we have already tendered a written submission. Although I will draw on elements of it, you will be glad to know that I do not intend to reiterate the full submission in my opening presentation.

946. As you may be aware, the fundamental role of the police is to preserve life, prevent harm, deter crime and bring to justice the perpetrators of harm. We strive to achieve that through the delivery of personal, professional and protective policing, which presents significant challenges to the PSNI, particularly when we consider the competing demands, the variety of people with whom we come into contact and the fact that most victims' initial contact with the police is often at a time of heightened stress and emotional tension for them.
947. Most people do not call the police unless something is wrong. For many of them, that will often be their first and potentially only contact with the police. They may not have a clear understanding of the role of the police and of what can or cannot be done. Very often, they simply want their problem to stop and for the issue that they have raised to be resolved. It is against that backdrop that I will discuss service delivery to victims and witnesses.
948. What level of service can a victim expect? In April 2011, we published the policing commitments, which are designed to clearly outline the basic standard of service that communities — that is, victims and witnesses — can expect from their police. Those commitments include fair treatment, victim updates at a specific time and an undertaking to provide updates that are tailored to the individual needs of the victim. The commitments outline how calls for service will be managed, including time skills and the response that can be expected. I will now give you some detail on the management of those calls for service.
949. As a service, we are often the first point of contact that a victim or witness has with the criminal justice system. In that sense, we are gatekeepers to the criminal justice system. The PSNI recognises that getting that contact right is crucial, as it often sets the tone for that person's ongoing engagement with the police and the wider criminal justice system.
950. During this financial year, the PSNI invested heavily in improving that first contact. That work has been taken forward as part of a wider programme of reform aimed at improving our service provision. It is called the R4 programme — the right people in the right place at the right time doing the right thing. Already, the R4 programme has delivered processes and policies for managing calls for service to a higher standard; policies and procedures that have now been implemented across the service. That has included professionalising our call-handling centres. Instead of having a small number of locally grown centres, we have created four larger, more resilient and specialised call-management units. All call-handling staff have now received specific soft skills training designed to improve customer service skills and service delivery. We have upgraded our information technology systems, adding flags, which better assist call-handling staff to identify areas of risk; for instance, flagging addresses at which firearms are held. We are building into our processes checks for previous history, all of which can assist us in providing the most appropriate response and identifying repeat victims.
951. Although all that has helped the PSNI to improve its initial service, we recognise that there is more that we can do. We are working on a bespoke call-management IT system and a system for the better identification and management of repeat victims. We are working to improve front line resource management, maximise call attendance and facilitate attendance at a time that suits the needs of the caller. We have already returned over 600 officers to the front line to improve service delivery and have delivered extensive programmes of work to reduce the amount of time that those officers spend in the station completing administration, including, for instance, the use of digital pens and mobile data devices. We are working to deliver a technological solution to ensure that the most appropriate and quickest resource is tasked to a call for service, regardless of district



- boundaries. Those changes will be introduced during the next financial year.
952. We have been working to better address the individual needs of victims within the wider criminal justice system, moving away from a one-size-fits-all service. That is at the heart of personal policing, which I referred to earlier, and has included work to reduce delay. For instance, in partnership with the Public Prosecution Service, we have introduced a telephone diversion scheme, whereby an officer can deal with incidents there and then, telephoning the Public Prosecution Service for a diversionary decision and immediately administering that. That facilitates a more immediate criminal justice response for the victim. Over the course of the financial year to date, approximately 2,000 diversions have been delivered that way.
953. Further to that, and again in partnership with the PPS, we have reintroduced discretionary decision-making. That allows officers to provide speedy, proportionate and visible criminal justice outcomes tailored to meet the specific needs of the victim. During this financial year, over 4,000 victims have had their crime resolved in this way, with over 95% of those victims saying that they were satisfied or very satisfied with the service that they received.
954. In relation to the cases that are being reported to the Public Prosecution Service, we have, through the R4 process, introduced significant improvements, including the creation of four specialised case-management teams supported by relevant technology and processes that focus on ensuring case quality.
955. We have worked to improve the voice of the victim in the criminal justice system. For instance, we have widened the use of victim impact assessments and improved the quality of those. We have delivered changes to our victim update processes. As a service, the PSNI is responsible for updating victims on the progress of the investigation, from the point of initial contact with the police through to the point at which their case is forwarded to the PPS. Our new processes clearly outline the time frames within which officers must update a victim. Adherence to those time frames and the quality of the update are robustly managed using the Niche system. Officers failing to perform updates, or failing to perform them to a specific standard, are highlighted to their respective managers for remedial action.
956. We recognise, however, that we still have much to do in the area of communication with victims and witnesses. We are currently working with our criminal justice partners to improve that service. The work is primarily focused on the provision of a single point of contact for a victim or witness for their whole journey through the criminal justice system. We are working to deliver that service through the development of victim and witness care units, which would provide a focal point for the victim. The victim would be provided with a named caseworker who would provide them with relevant updates the whole way through the justice system and would, for instance, ensure that, when a victim has a special need or vulnerability, that need is adequately met by facilitating the provision of tailored support services through, for example, joint working with Victim Support and improving interagency communications.
957. The victim and witness care units will also be key in managing the early identification of vulnerable and intimidated witnesses and ensuring that that information is shared promptly right across criminal justice agencies. Until those units are introduced, however, we will continue to work with the PPS to improve our current services. That includes work to improve the provision of special measures, which are, quite simply, just that — measures that are put in place to assist vulnerable and intimidated witnesses to give the best possible evidence in criminal proceedings. The identification of vulnerable and intimidated witnesses is paramount and must be done at the earliest stage of an investigation



- if we are to ensure the best quality of evidence. That identification is particularly challenging for police. As a direct consequence of that, we have, in partnership with the PPS, recently developed a training package to heighten officer awareness in that area. The training is currently being delivered to all front line officers and will assist in ensuring that the needs of victims and witnesses are given appropriate consideration at the earliest possible stage, thereby improving service delivery.
958. The PSNI has also invested in achieving best evidence (ABE) training, whereby — again, assisted by the PPS — specialist ABE officers have been trained in joint protocol and achieving best evidence interviews. We are involved in a working group on vulnerable and intimidated witnesses so that we can improve the service to victims and witnesses, and that work includes, for example, work to facilitate the introduction of registered intermediaries. We are continuing to work to improve relationships and to encourage reporting and engagement with communities who may be marginalised or have a particular distrust or nervousness about reporting incidents to police. That includes our work with the Northern Ireland Council for Ethnic Minorities (NICEM) and the Rainbow Project. It also includes officer awareness training, local engagement programmes, provision of interpreters and work to break down barriers to communication.
959. Work also continues on specific crime types, such as domestic abuse, sexual crime and murder. We continue to provide specialist services and trained officers, extending, for example, to family liaison officers. That scheme enables them to engage the relevant support agencies, such as Women's Aid and the National Society for the Prevention of Cruelty to Children (NSPCC), for serious and more complex cases.
960. In conclusion, I reiterate to the Committee that the Police Service of Northern Ireland is committed to working with the wider justice system, the voluntary sector, non-government agencies and communities to develop and improve our services to victims and witnesses. Much work has been done, but, clearly, there is much work still to do. Thank you, Chairman.
961. **The Chairperson:** Thank you very much. Can you talk me through what happens when an officer who is the initial point of contact for the victim of a crime comes forward to deal with that individual? What training has been provided to the officer to enable him or her to deal with that? Some responses that we have received have highlighted that that is the first opportunity for individuals to have empathy shown to them — or not. That can have a big impact on victims. How is the officer prepared for that initial meeting with a victim of crime?
962. **Assistant Chief Constable G Hamilton:** I will make some introductory comments and Andrea will then provide the detail. Some of the work that is being done to establish the four call-management centres has meant that we have recruited into the organisation people from a call-handling background. That is because, these days, the first point of contact is generally a phone call. Engagement with the police begins with that phone call, so it becomes critical. From that phone call, information is obtained and some prioritisation is put in place. Then, very often, a police officer will be deployed.
963. **Superintendent Andrea McMullan (Police Service of Northern Ireland):** I will start with the initial contact. There was a recognition that our soft skills were not what they should be, in that we were very focused on the processes and procedures of the police. We had 10 years of being pushed down that road. We, therefore, worked with an external company to design a soft skills course for call-takers, which teaches them how to answer the phone, how to deal with people on the phone who are upset, which we may perhaps take as conflict, and communication skills. So, we did that soft skills piece for the point of contact.

964. The officers who respond and attend initially receive very good training in that area, and there are lots of things in the six-month training package. Those officers then go out into the wider policing environment and spend two years as probationary officers. During that period, there is quite good scenario-based training that looks at soft skills and dealing with particular situations. As you move out across the organisation, however, there is a patchy picture in relation to how we train officers. In picking up on that, we have looked at specific areas where there is particular need and where we are particularly weak. One of the key areas is identifying the 10% to 20% of victims who need additional assistance. That is reasonably specialised and is something for which there was no general training. We have trained only our specialist units, so we have rolled out a very particular course for officers, and all front line officers will now receive that training.
965. When we rolled out some of our other initiatives, we built in other pieces of training around engagement, but they were specific to those initiatives. All officers received a full scenario-based training session on discretion. Again, we brought in specific trainers to do that. The trainers were not police, and they were not looking at it from a police perspective but from a softer skills perspective, whereby the victim is engaged in the process. Again, some of the feedback from some of our victim contact was that, when police officers come out, the first thing they do is fill in forms. The feedback was that they are more interested in form-filling than listening. So officers have received training on discretion that teaches them about engagement and about setting aside forms and instead having a conversation about the needs of the victim.
966. The next stage for us is to look at how we pull together all the small pieces of training that we have already delivered into a wider package that is delivered as part of a continual improvement process and that is linked into the new individual performance review, which is an appraisal system that was launched last November. Linked into that will be special benchmarks for training. That is not developed yet, but we will develop it as we move into the new year.
967. **The Chairperson:** There was mention of the organisation being process-orientated. When you develop a new way of doing things, at what point does the impact on a victim come into it? I know that we are used to getting victim impact assessments from an individual when they go to court. However, does the organisation ever carry out such an assessment of the processes and the way it does business?
968. **Assistant Chief Constable G Hamilton:** I think that some of this is about a cultural shift. It is much easier to tick boxes and forms and follow processes than it is to engage with an individual. I think that there has, rightly, been a degree of scrutiny of the behaviour and conduct of the Police Service over a number of years. Part of that scrutiny may have focused people on doing the stuff that is easily recorded and documented rather than on emphasising personal and individual needs. The three Ps — personal, professional and protective policing — are not just three pieces of alliteration that the Chief Constable likes. They are about an absolute desire to have personal policing so that people are being dealt with as individual human beings. The process, the form-filling and the systems come in behind that, if at all. So that is very much where the focus is. That challenge is there. It is a leadership issue. I think that that is coming from the top of the organisation and being drilled down. It is about how it will look for the individual and how the individual will respond and react to that.
969. **The Chairperson:** Is there a victims' champion or an advocate in the organisation who says, "This is what we should be doing"?
970. **Assistant Chief Constable G Hamilton:** I am he.

971. **Superintendent A McMullan:** What we have designed now recognises some of the failures around victims. Our piece of work on victims sat in a different area of criminal justice within the organisation. It has been moved into the area that links with delay because we recognise the cut-across from the two. So both issues now sit together. We now have a specific team of officers who are looking purely at the piece of work on victims. They are looking at the development of that piece of work and not dealing purely with victims. As we move towards the wider development of that and the victim and witness care unit, the team will grow, depending on the particular project focus. It involves not just officers but civilian staff, too. What we have done that we were not historically good at is to bring people in from district for short periods. Those people are actually in contact with victims. Sometimes when you are developing things at headquarters, you are in a kind of glass building; you are standing at the top of a tower. So we have brought them in to help us to feed back to the community.
972. We have carried out some heavy consultation on the speedy justice initiatives that we have been driving forward over the past two years. We have gone out to see community groups and have sat with community-based restorative justice groups, and they have brought victims and some of their regional groups to meet us. We have also met agencies that represent victims, and we have taken their comments on board. Our scheme is currently out for consultation. We are a year into this now, so we need to ask, "What does this look like and how is it developing an impact?" We survey victims as well, and we act on those findings. For instance, if we find something that has a learning trend, that will feed back in as well. We are building that into our processes much better than we did perhaps two years ago. We may not be there yet, but we are building it in.
973. **The Chairperson:** Finally, can you describe to me how the victim and witness care units would operate? One of the themes coming through is that, although the organisations within the criminal justice system are independent, to the victim they are part of one continuous process, starting with the police, then moving on to the PPS, the courts, and so on. How do you envisage the care unit and the one-stop-shop arrangement operating, and what will the police's role be?
974. **Assistant Chief Constable G Hamilton:** We can draw on evidence and experience in other places. There are two separate models in operation, one in England and Wales and a different one in Scotland, but we need absolute clarity about who is responsible for what and at what point. That would largely relate to the Scottish model, which has very clear lines drawn so that the police have responsibility up to the point of referral to the Procurator Fiscal Service, the prosecutorial authority. A subset of the prosecuting authority, the victim information and advice (VIA) service, carries the ball from that point forward through engagement with the victim. That works because it is crystal clear who has what responsibility and when. It is slightly different in England, and Andrea can comment on that because she has been across and seen some of that.
975. We are proposing a care unit that would be a one-stop-shop, right from initial engagement with the police. Obviously, the individual police officers would have the individual engagement, but, at a very early point, there would be a contact point where victims can get updates if they have concerns or if things spring to mind that they want to talk about with the police, the PPS or whoever along the way in the process. The idea is to have a central hub for victims and witnesses. Would you like to talk about the detail of the model, Andrea?
976. **Superintendent A McMullan:** I like to see something in action and get a feel for it. In practical terms, I see this as being jointly staffed by police and the PPS, along with the additional agencies that need to be embedded, whether that is Victim Support or whatever. It would

- sit in a single location, using a single IT system that is fed from Causeway or is a hybrid of the PPS/police system. Quite simply, when a case comes in, it would be allocated to a case worker. Those would not be high level staff — they would have administrative roles — but they would have access to all the information across the system. They would also have access to the relevant staff from the relevant agencies and would be empowered to have the conversations that they need to have with them to get the information that they do not have or to seek clarity. They would then make contact with the victim, provide their details, and act as a conduit to the victim.
977. We see the conversations as being initially verbal but with a written follow-up. Other points of contact would be through the medium of IT; you could come in through a hub and leave e-mail messages, and that would provide a much more expanded service. It probably would be more efficient for the justice system as it would mean that we are not managing individual processes. It would also assist communications between the agencies at an operational level. You will hear evidence from the PPS later, but that is certainly the premise on which we have been working with the PPS, and I think that that is a shared view.
978. **Mr Wells:** I have been around for a very long time. One of the most common complaints from victims is about the lack of contact with anyone and the sense of helplessness that often compounds the crime. It is a bit of a pity that, despite having had many representations with us over the years, it is only now that you seem to have cracked it. To be fair to you, though, over Christmas, there was an ugly incident in a part of Kilkeel where there was not much support for the police until recently, and you got it absolutely right. I must say that I was very impressed with how the issue was dealt with and followed up. We are beginning to see the outworkings of what is being done.
979. Can you give us an absolutely categorical assurance that no victim will be left high and dry in the future, as has happened so often before? Is that a thing of the past? If it happens, will that mean that a major mistake has been made in the system?
980. **Superintendent A McMullan:** From a police perspective, setting aside the victim and witness care units, over the past year we have rolled out a new victim update system, which is very clearly managed by an IT system. A victim is updated at 10 days, 30 days and 75 days. At 30 days, a victim can nominate that he or she does not want the 75-day notification, and that has to be marked clearly on our system. That is audited, and the system provides a feedback to us to state that these updates have been done or not been done. It also provides an escalation. Therefore, if an individual officer who gets an update is on leave or is just not doing it, we can audit that, and there is a follow-up process. I can say categorically that we have a method for managing that and knowing which victims are being updated and which are not. We have a process for dealing with the victims who are not updated, which we did not have before. We never had a system that completely managed it all and gave us full oversight.
981. **Mr Wells:** If someone contacts me or any other MLA and says, “I have heard nothing for 30 days”, that would mean that there has been a mistake in the system and that we should go straight back to you to say that something has gone wrong.
982. **Superintendent A McMullan:** They should have an update at 10 days.
983. **Assistant Chief Constable G Hamilton:** Yes, but policing is a human endeavour. If it goes wrong, we will deal with that. The safety net that we have in place now is the management information system, which lets us know if something has gone wrong. That in itself should reduce the likelihood of a mistake happening. All this is linked to the performance of the individual officer. The issues around



- personal policing and the connection with individuals are the sorts of things that we will measure in the individual performance review, which is another step change that was brought in to support the victim-centred approach.
984. **Superintendent A McMullan:** What should happen is that that will escalate to the line manager of the person who has not done it. That line manager should pick it up, allocate it and ensure that it is done. Technically, it should not happen, but a good system is now in place to manage it, and that system was not there before.
985. **Ms J McCann:** Thank you very much for your presentation. I will pick up on the issue of having contact with people and keeping them updated and the reasons for the breakdown in that. Community policing teams, for instance, are very good at working with community representatives who liaise with victims of crime, especially on bail conditions so that they know whether the person who has been charged is allowed to be in a certain area or whatever. A lot of those community teams work very well. I want to pick your brains on the roll-out of this. Getting the systems in place is fine, but it is always down to whoever is working the system, whoever is on. Is there some way that you could incorporate the fact that there are people there who have already had the training, having worked with organisations in the community?
986. I also want to ask you about the sexual assault referral centre (SARC), which seems to work well in other jurisdictions. I heard about it several years ago, but I would like an update of where that sits now. I noticed from the NSPCC and Women's Aid evidence that there are nurses that are trained in the South to do forensic tests on people, particularly in relation to sexual crime. Are those sorts of things in your mindset in rolling this out?
987. **Assistant Chief Constable G Hamilton:** I think the inference in your question is about the difference between some of the community and neighbourhood policing teams, and other aspects of the organisation. We have made it very clear what the standards and expectations are. The policing with the community strategy and the way in which people engage in a personal and professional way applies to all police officers — in fact, it applies to all police staff as well — so much so that all departments right across all disciplines in policing have had to come up with their own delivery guide for what the policing with the community strategy is going to look like. Right at the heart of the policing with the community strategy, as I am sure you are aware, are the principles of engagement in partnership and service delivery. We are making sure that service delivery is done in a personal way.
988. There is specific training for officers going into neighbourhood policing teams, but those officers are largely drawn from response policing teams. There is a bit of an irony in that, because that group of policing is often criticised about not taking time and being personal — “fire-brigade policing”, “form-filling policing” and all that sort of thing. The challenge for us — and these are conversations that I have been having with the head of training in the last few weeks — is the need to get the right ethos. There is something about what we specifically want people to do, but it is also about how we want them to do it, spread right across all disciplines of policing.
989. In relation to SARC, Andrea might have some detail on the Antrim project, but that is exactly the direction that we need to go in. I know that there has been some progress in recent weeks. Part of the SARC facility is about making sure that the most suitable people are there, trained and equipped, and trained not just in the harder medical skills but the full range, in order to deal with the victim in the best way. Sometimes, that involves nurses. A lot of the good stuff in SARC, which I have had recent experience of in Glasgow, is actually the bit beyond the police. It is all joined up, and there is an aftercare service. Although there is a need for the medical

examination, for both the person's well-being and the capture of evidence, the really critical thing for victim care is the post-operational piece, if you like. As an organisation, we are absolutely behind that and we have invested in it. I know from one of the initial briefings we have had that there was a bit of a glitch with the Antrim build, and so on. Maybe you have some more detail on that, Andrea.

990. **Superintendent A McMullan:** We can say that the funding was secured for SARC. It went out to tender, which, as you know, is a long process. It is reasonably well known that there was a problem with the building contractor, who has since gone out of business, so we have now had to go out and re-tender. We are hopeful that the referral centre will be delivered by early 2013. With regard to the use of nurses, we currently use doctors. We do not specify that it will be a female but if a victim wanted a female doctor, most of our forensic medical officers (FMOs) who are specially trained for sexual offences are female. I think there is only one male, who is a temporary member of staff, but I would need to check that. We are looking at a full review of the healthcare provision within the PSNI. That is ongoing as we speak, and is linked to the development of new custody processes. We are looking at wider use of nursing staff as part of that. I am not directly involved in that, but I will certainly feed back the comments made today and ask that they specifically look at that as part of the review, if they are not already doing it.
991. **Mr S Anderson:** Thank you for your presentation. I certainly appreciate your continuing efforts in this area of work in addressing updates to get information back to victims. I want to pick up a point that my colleague Jim Wells raised in relation to your 10, 30, and 75-day update times. Andrea, you said in your presentation that 10% to 20% of cases are in need of special assistance or attention. In that case, could those 10, 30 and 75 days change for those people? Could the dates be varied so that a lot more attention is given to individual victims?
992. **Superintendent A McMullan:** Those dates are a benchmark that sets a minimum standard. If a case involves a family liaison officer, victims will receive one-on-one support in the early stages of the case, and that support will then be tailored to the needs of the victim. Victims of sexual crime will probably get more support. Support is case specific, but we have tried to set a benchmark that allows us to measure the support that is given and to say that all victims will at least receive that minimum standard.
993. There are provisions in place to ensure that victims of specific crime types receive support, but we have more work to do in focusing on needs in those cases that do not fit a specific crime type. Not everyone will need the same support. Vulnerable people may not need the support that is offered for one specific crime type, but they may need the support that is offered for another. It is a very difficult business to get right. We are moving forward with it, but it is not something that we have cracked. However, victims of specific crime types get support. For example, if a victim goes through an ABE process, which is a fairly specialised interview process, they will receive additional support. That process is about encouraging people in the giving of evidence and supporting them.
994. There are vulnerable people and communities that are hard to reach out to. There are also victims in those groups with whom there are difficulties in giving support, and we find that challenging. For example, we are working with the Traveller community about how we can better engage with and support that community. We have received some feedback from that community that the police do not take issues in that community seriously. We are trying to work to improve the reporting of those issues and how we support victims of, in particular, domestic violence. It is a learning and development process. Additional support is given to victims,



- but that support is not regimented or set in stone.
995. **Mr S Anderson:** That brings me to isolated victims and perhaps elderly people who live in rural areas, with whom I have had experience. George said that high levels of emotional stress are encountered at the first point of contact. However, that stress continues right through until cases are dismissed in one way or another. What efforts are made for those victims who feel isolated? What form does the contact with those victims take? Is it through the use of present-day technology, or do PSNI officers visit those victims and develop personal relationships with them? A big issue for those victims is the building up of personal relationships with police officers, so that they trust them when they visit. How do you see that personal contact continuing? With the pressures that you are under, are there resources to do that?
996. **Assistant Chief Constable G Hamilton:** We need to understand the diverse needs that people have. Some of the well-intentioned mistakes that we have made before were done through putting people or groups of people in boxes and trying to find a one-size-fits-all solution. From day one at the police college, we try to breed and encourage the notion of officers identifying those personal needs.
997. I was in the home of an older person just before Christmas. Two police officers walked past in high-visibility jackets, and, as they walked past the house, I thought that that was good visible policing. However, the older lady said to me, "There's police out there. I wonder what's wrong." The presence of those officers almost created fear in that lady. I am not saying that we should not have officers on the streets in high-visibility jackets, but different people have different needs, fears and concerns. We are trying to change the entire organisation, so that individual officers see individual citizens as individuals and realise that their needs are many and varied. We need to be able to identify those needs and to meet them.
998. You talked about cases of older people who live in isolated circumstances. First, we need to identify that that is the case. The whole concept behind neighbourhood policing is that police in an area know the area, have ownership of it and are known by people who reside there. I would like to think that, as time goes on and there is more and more contact with residents, those relationships could be built up. There are also specialist services that neighbourhood officers can bring in such as giving advice on crime prevention and safety. Support can also be offered through various schemes that we can encourage people to invest in or that, in certain circumstances, we can find the funding for. It is that idea of identifying the diversity of need and then coming up with a solution, through ourselves, the voluntary sector or whatever initiatives might be in place.
999. **Superintendent A McMullan:** On the specific issue of older people, we do a lot of work with Help the Aged, which now has a call-out scheme whereby, if someone has been burgled for instance, it will send a handyman to help secure the house. We link in with that. Some of our initiatives deliver tailored responses, and they are particularly important for vulnerable groups, because often the crime is low level and they do not want it to go into the formal system.
1000. The period in which the crime is dealt with is crucial because it hangs over them, as they do not know what is happening. We have found that some of the feedback from the discretion scheme, which tends to have the crime dealt with from start to finish within seven days or, at maximum, 14, is very helpful. I do not want to give examples because you are short of time, but some of the cases that involve elderly people have had very positive outcomes, in that the damage has been repaired. The older people have also perhaps re-engaged with some inter-generational issues, and with youths who may have been involved in the offending behaviour. That has made them feel safer, rather than more isolated.

1001. Sometimes, entering the justice system makes older people feel more isolated because you have taken a case and you then perceive that other things are happening because of it. This has helped with some that, and it is a restorative process. We are trying to help people go down a more restorative route.
1002. **Mr A Maginness:** Thank you both for your very interesting contribution. It seems to make very good sense that the police have become victim-orientated and that you look after the interests of victims of crime. However, it represents, in many ways, a sea change. I do not know whether you accept that, but it seems so to me. I wonder why that sea change has taken place. Can you give us any idea of the genesis of it? The police have become very conscious of the needs of victims, whereas, before, one might say that the Police Service was not as conscious of the needs of victims.
1003. I can give you evidence of that from my own experience. In 2001, my office was bombed by a paramilitary organisation. Very serious damage was done. Three people upstairs could have been killed but, by the grace of God, they were not. I am not certain whether the police counted me as a victim of that, because I was not there. However, it affected me significantly; it affected my office and my staff, etc.
1004. A year or so later, I read in the newspaper that a person had been convicted for that. I had no indication whatsoever from the police, with whom I had good and very close relations, that the case was coming to trial, that anyone had been charged, or indeed that the trial had taken place. That seemed to me to be very bad, as a case of police relating to a public representative. If the police were treating me like that, how were they treating ordinary people? Therefore, I think that there has been a sea change and I wonder how it has come about. I commend the police for it.
1005. **Assistant Chief Constable G Hamilton:** One issue has driven the change so that we are now moving to a more victim-centred approach to service delivery, and that same issue — for me — potentially held us back from that step as well. That is the issue that I mentioned earlier, in passing, around scrutiny. It is actually easier for officers if they have a very clear policy: almost as though they have a flow chart that says what they should do next, rather than having to ask about the needs of a particular individual, having to exercise that human judgement, and allowing them to get it wrong sometimes. With scrutiny comes criticism and blame when we get it wrong. There is something about empowering people to make judgements about how best to deal with and how best to problem-solve certain scenarios. I think that looking over our shoulder like that might have slowed us down. That is not an excuse; it is just a hypothesis that I put to the Committee for its consideration.
1006. Because of that level of scrutiny and inspection, we have had a significant number of reports from a variety of bodies, such as the Criminal Justice Inspection Northern Ireland (CJINI) and the Human Rights Commission, among others, about our handling and — let us be candid — our shortcomings in dealing with victims. Moreover, there is the power of our current structures for monitoring and accountability through district policing partnerships (DDPs). In my previous role as district commander for south and east Belfast, I often heard powerful anecdotes at district policing partnership meetings from members of the partnership and of the audience about the quality of service that they were getting, as well as some of its shortcomings.
1007. The policing architecture has strengthened victims' voices, and with that has come a level of scrutiny through the Policing Board, the DPPs, and the various inspectorates and commissions. They have spoken loudly to us, and we have responded. Bizarrely, and this is my own view, some of that scrutiny might have led us to something of a one-size-fits-all approach. A good example

is discretionary disposals. The victim reports an incident to the police, and an officer speaks to the victim: "You've had your window broken, Mrs Smith. How would you like this to be dealt with?" She might reply: "I would like the 14-year-old to be spoken to, and I would like my window replaced, please." The police officer no longer has to think about filling in a form and recording a statement and all the other bureaucracy. He simply has a conversation with the 14-year-old: "Do you take responsibility for what you have done?" "Yes." "Do you think that you owe this person an apology?" "Yes." "Do you have the means to repair the damage?" "Yes." We then have a disposal within two hours, and the victim is entirely satisfied with the police response. It means that a 14-year-old is not sucked into the criminal justice system and does not get a criminal record. Also, we avoid the bureaucracy of a file going through the police and the PPS and coming back for amendments.

1008. However, when that was introduced, we had to get officers to have the courage to take responsibility for making decisions that are human judgements. Sometimes, after we have unpicked everything, we find that an officer might have got it wrong and could have made a better judgement. However, we have to allow people to make judgements. Sometimes, a more appropriate judgement might have been made, but if an officer acts in good faith it will be a learning experience. That is a very long-winded way of saying that scrutiny has been a positive development but has prevented us sometimes from doing the individualised personal policing work.

1009. **Mr B McCrea:** You are fortunate on this Committee to have people with experience of crime. Like Mr Maginness, I was a victim of crime. I looked through your report and I wondered whether your changes would have satisfied me. My experience was not as traumatic as Alban's, but we were burgled twice, although the second time was attempted burglary. They put a boulder through the window in the

middle of the night in an attempt to get the keys. It was quite an interesting experience. I engaged with said burglars and managed to grab an arm before realising that that was a stupid thing to do. At six o'clock the next morning, the PSNI phoned to tell me that they had uncovered a car with a man with a sore arm and that it might have something to do with me. *[Laughter.]* I was not sure whether I would be charged, to be honest.

1010. I understand that this a really broad area, but you can only talk about your own experience. A couple of things struck me about that incident, which happened around 3.00 am. The police were very good about coming promptly. However, Jill was particularly traumatised. There was a hole in the window, and all she wanted was for it to be fixed. There was a sense of personal violation and that the house was not complete. I had to put a bit of plastic on it even though that would not make it secure. There is a psychological impact.

1011. The police sat for ages, taking details in longhand. They wrote things down, took witness statements, etc. I do not know whether it was because I was a public representative, but the process seemed to go on for ages for someone who was highly traumatised. There is nothing in your paper and in your discussion here about how you mitigate the effects of a crime when you are first on the scene and have to try to deal with these things. The 10-day follow-up, etc, is great, but you are first on the scene, whether it is a boulder through a window or a bomb attack. How do you deal with people who are very badly traumatised? Where is the improvement in handling that aspect of things?

1012. **Superintendent A McMullan:** It is not 100% yet, because it is a varied picture. That is the starting point. There can be traumatised people involved, and there may be officers to whom the message has not yet reached. We have tried to focus on the need to remove the requirement to fill in all those forms. When we get to you, our primary concern should be about how you are,

- what happened, and how we can pass the information to colleagues without creating an overly bureaucratic process. At the minute, the R4 process has delivered a method whereby, instead of an officer filling in forms in longhand — and more often than not getting it half-wrong and putting it into our system wrong so that when we go to update people we do not have the telephone number — we have a very quick phone-in system whereby the victim, when ready, can pass the details to someone at the other end.
1013. **Mr B McCrea:** I can understand that that would be the case when people are phoning in details, but with respect to burglary — and when one is on the Policing Board one can see the rise in the number of burglaries — where the police are there and it is not about someone phoning in, do they still have to write everything out in longhand because that is what the PPS requires for evidence purposes, or can you make, for example, a recording and transcribe it later?
1014. **Superintendent A McMullan:** What we should be doing in that instance is coming back to people when they are less traumatised in order to take the details required for the investigative process. I suspect that when we came to your house initially it was to fill in the forms to populate all the systems. That is not done because the PPS requires it but because we have to collate certain statistics for crime recording. However, what we are doing now is saying that most of those details will be on our system already. For instance, we will know who you are, because although it might be the first contact that most people will have with the police, their details will be on an electoral register, etc. Now, when you ring us initially, all of that ancillary information will be pulled together from the various systems so that we do not have to stand at the scene and get all that information from you. We still have to establish some of the basics, such as whether you know what happened, but the statement does not need to be taken immediately.
1015. We are trying to develop a system with our officers whereby they can tell you that they have enough to do the initial investigations — enough to link the person in the car to your house — and ask you to tell them when it would be suitable for them to come back and get all of the other information that they need for the investigation process. That information is not required because the PPS says so; it is because the courts require a certain level of evidence. However, a victim's evidence when it comes to burglary is that they were in their house at a certain time, that they left their house secure, that someone came and did X, that the house is now not secure and that something has been taken.
1016. It should not be a traumatic process. I think that we have officers who are still saying that they have to cover every aspect — going back to what you were saying — in case their boss or someone else comes along and criticises them. We are trying to change that culture.
1017. **Assistant Chief Constable G Hamilton:** The process around R4 took the number of pages in the crime report from being in the teens to an application that is much shorter and is on a Blackberry so that people can simply rattle in the details they need. Even at that, one of the commitments that we made to the public — as much for internal consumption for our officers as it is for the community — is that we will engage with you at a time that suits you and meets your needs. If we are serious about personal policing, we should be asking traumatised victims, people with crying children, or sleep-deprived public representatives whether we can grab —
1018. **Mr B McCrea:** A sleep-deprived public representative's better half was the issue.
1019. **Assistant Chief Constable G Hamilton:** There may be some fundamentals around capturing a piece of forensic evidence that we need to get, there and then, but that would be the exception rather than the norm.



1020. **Mr B McCrea:** I do not think people really get that as an issue until it happens to them. There is significant trauma in what, statistically, would probably be recorded as a minor incident, such as an attempted burglary. The effect of an attempted burglary on another person in my constituency was so traumatic that they ended up insisting on selling the house. The wife would not stay there because someone had been in the house.
1021. At some point, we have to reassure people and deal with that trauma. You referred to other agencies, such as Victim Support, but they tend to come in later. I interacted with them about personal injury and things like that. You may investigate crime but you also happen to be first responders. When it comes to computerised reporting of these things, I will tell you what happened when the PPS got involved, which, believe me, was even more interesting.
1022. The other thing about taking evidence is that we ended up having an identity parade. By the time it got round to doing that parade, we could hardly recognise Northern Ireland, never mind anybody stood there. It took so long to get there. We did not know that we would have to do it. We had no idea about writing down what we would do. People are in shock and all those sorts of things. If that is part of the evidential chain, it is not much good. It is partly about how you get in and understand the reality of what is happening. I mention that only as part of your ongoing work. I do not expect you, George or Andrea, to say anything other than: "We feel your pain and we are going to try to do better next time."
1023. This is not about ticking boxes. This is about personal intervention, which I think presents a huge opportunity, as the Chief Constable would say, for the police to win friends and influence law-abiding citizens who have become victims. It is not an idle part of policing.
1024. I will not detain the Committee any further. However, that is where I would like to see movement. It worries me that computerised records depersonalise rather than increase the amount of information.
1025. **Mr Lynch:** I will keep my contribution shorter than Basil's.
1026. **Mr B McCrea:** I am sorry about that, Seán. I was just sitting and waiting.
1027. **The Chairperson:** He was getting his trauma off his chest.
1028. **Mr Lynch:** The delay in cases coming to court has come up as one of the key issues in this inquiry. I know that a lot of responsibility for that falls on the PPS. However, what role have police in speeding up justice by bringing cases to court and ensuring that they come to court? That delay has a major impact on victims.
1029. **Assistant Chief Constable G Hamilton:** That is your day job, Andrea, so I will pass over to you.
1030. **Superintendent A McMullan:** There is a joint responsibility. I do not think that a lot of it falls on the PPS. We start the process and there is a joint responsibility across the system. That responsibility extends right across the whole system, including right into the court process and the judiciary. Our system is adversarial. Whether we like it or not, that is the nature of the system. Therefore, that sometimes dictates some of the processes.
1031. Over the past two years in particular, we have worked quite hard — I know because I have been leading that piece of work — on reducing delay. We are doing significant pieces of work, but, without the necessary and requisite infrastructure changes, those pieces of work are not visually impacted. We have tried to reduce the number of cases going into the system. So, you have 60,000 cases entering the system of which only 30,000 are ever going into the system to go before a court. We recommend that the PPS uphold most of those cases that go into the system, and the majority of our recommendations are accepted.

1032. So you are already swamping the system with 30,000 potential cases that do not need to be there. That creates 30,000 case files, which slows the system down. We have developed a number of things with a view to reducing the number of cases that physically go into the system, including a telephone diversion scheme, which we spoke about, and the use of discretion.
1033. During this year, we have focused our attention on the cases that are in the system and on trying to improve the quality by being more specific around what is required. We have managed to agree with the PPS very clear guidelines on what is required. We did not quite have that before, and it is a grey area, so it depends on that. We have in place a case-ready system so that we know what the case looks like. We have developed streamlined processes and files for those cases, and we have looked at the difference between a charge case and a summons case. It takes a case twice as long to go through the system if we deal with it by summons, so why would we not start by trying to deal with everyone by charge? Therefore, we are looking at moving towards a pro-charge approach, and we are currently piloting that in two districts. It will be rolled out across the Province by June, so we will have a streamlined charge case.
1034. What we do not have, however, are things that will knock 100-plus days off the system, such as changes to commitment and arraignment processes and to the preliminary enquiry/preliminary investigation (PE/PI) process. Essentially, if a victim's case is a serious one, they could be subject to two trials. They go first to see whether they have a case to bring before the court and then they get to bring the case to court. You can imagine what that is like for a victim. The PPS could provide you with accurate figures, but my understanding is that that adds more than 100 days to a case.
1035. We are doing significant work, but infrastructural change is required. Currently, all of our summonses require to be signed by a Justice of the Peace, which adds time and delay to when they can be issued to the police. If we do not serve them within a certain period, they have to go back to be reissued and re-signed, which automatically adds another six weeks. I do not mean that we are not serving them. If I, as a police officer, call at someone's house to serve a summons and that person is not there and I then try persistently to serve it and am not successful, it has to go back within a certain time frame to be reissued.
1036. All of those wider issues still require to be addressed. We are working to address them, and, hopefully, new legislation in the form of the next justice Bill will be out for consultation. I am sure that the Justice Committee is aware of that. Ongoing work is taking place, but a systematic change needs to be made. It is wider than just the pockets of work that we are doing, and we are working in a more joined-up way with various working groups under the Department of Justice (DOJ). Does that give you a flavour without going into the depth of it? Active work is ongoing.
1037. **Assistant Chief Constable G Hamilton:** The issue of whether statutory time limits should be placed on the criminal justice system is, ultimately, a matter for the Assembly. The Criminal Justice (Northern Ireland) Order 2003 makes provision for that, and it needs to be examined whether the provisions are fit for purpose or whether a more appropriate method of setting statutory time limits would be better. Members may be minded to give that some consideration, because it would compel the full criminal justice system to perform within certain timescales, other than in exceptional cases. That does not currently exist.
1038. **Mr A Maginness:** Perhaps this is an unfair question, but you raised the issue of statutory time limits. Has the PSNI an official view on statutory time limits? Does it support them?
1039. **Assistant Chief Constable G Hamilton:** Yes, our view is that they



- are now necessary. There are some fundamentals that we need to have in place otherwise the entire system will fail. The first time that statutory time limits were mentioned was in the criminal justice review in 2000. Therefore, for 13 years, we have been talking about getting the house in order before we move to this. There is something about the urgency that the introduction of statutory time limits would bring. There is a whole host of things around committal proceedings, which Andrea talked about. We have a question around whether they are always necessary. In some circumstances they are, but it does not mean that every case that goes to a higher court needs to go through a preliminary inquiry or a preliminary investigation stage. There is a whole piece on judicial case management, because our view is that there is little point in having a "hurry up and wait" scenario; we need to make sure that this runs right through from the start of the process — charge or even arrest — to disposal and sentencing.
1040. The Lord Chief Justice recently issued some case-management protocols, which we welcome. There are some challenges for us that we will have to work through. However, as more and more discipline comes into the system from the various agencies, we will move to a point where statutory time limits are meaningful and an incentive is created for us to work together to get this right. We support the matter in principle.
1041. **Mr A Maginness:** Under the 2003 Order, is there a power to enact statutory time limits?
1042. **Assistant Chief Constable G Hamilton:** Yes, there is. We invite members to consider whether the provisions in the 2003 Order are fit for purpose. If there needs to be enactment by way of regulation through the Assembly, given what we have learned over the past 10 years about this and the knowledge that we now have that we perhaps did not have in 2003, there could be a question mark over whether the 2003 Order is the most appropriate tool for statutory time limits. We are certainly up for that discussion.
1043. **Superintendent A McMullan:** We tend to focus — this is not a criticism — on agencies in the criminal justice system. We have to remember the defence body and recognise that delay is not always a one-sided issue. Therefore, in whatever we do, we must consider the other side of the house, otherwise you could have one side striving against the other. So we need to consider everything around the requirements on defence.
1044. **The Chairperson:** Yes. I picked up in the report the effect that changes in the Scottish system had on early guilty pleas there; once the fee system was changed, the number of early guilty pleas dramatically increased at a much earlier stage.
1045. **Assistant Chief Constable G Hamilton:** There was a 400% increase.
1046. **The Chairperson:** That speaks volumes. Your point is well made.
1047. I thank you all very much for coming along. Good work has been done. As I said to George yesterday when I was with him, it gives me pleasure when someone asks me to write a letter to the police to thank them for the work that they have done; for example, family liaison officers who have dealt with cases of very serious crime. I have done that on a number of occasions, so I know that there is good work taking place.
1048. **Assistant Chief Constable G Hamilton:** Thank you for the opportunity, Chair.
1049. **The Chairperson:** Our next evidence session is with the Public Prosecution Service. I welcome Stephen Burnside, assistant senior director, and Ms Una McClean, senior public prosecutor, to the meeting. Again, this session will be covered by Hansard. We will try, as far as possible, to move this on a little bit quicker than the last session to keep us on track with our timings. I invite Stephen to give us a brief outline, after which we will move on to members' questions. Members who did not get to

ask a question last time and who want to speak on this occasion will get first call.

1050. **Mr Stephen Burnside (Public Prosecution Service):** Good afternoon. I am Stephen Burnside, senior assistant director in the PPS. Among my other responsibilities, I am the project lead in respect of witness care units for the PPS and the victim information portal. The director has appointed me as the victims' champion in the PPS. With me today is Una McClean, who is from our policy section. Una is a senior public prosecutor and is our policy lead on victims and witnesses. We have two other senior public prosecutors in our policy section with relevant responsibility for victims and witnesses in cases involving sexual offences and human trafficking and youth cases.
1051. You have the formal PPS response to the inquiry. I endorsed that document and adopted it as the foundation for my evidence today. The PPS is grateful for the opportunity to give evidence to the Committee in respect of victims and witnesses. As an organisation, we have long been aware of the responsibilities and challenges in relation to victims and witnesses faced by our organisation and the wider criminal justice system.
1052. The PPS has been at the forefront of improving the provision of services to victims and witnesses, particularly over the past five years. For example, the development of the service's dedicated trained community liaison teams as the point of contact in the PPS was a significant improvement in communication between our organisation and victims. Our policies in Northern Ireland on consultation with victims before taking the decision to prosecute and before they give evidence were always ahead of those of, for example, the Crown Prosecution Service (CPS) in England. Until relatively recently, victims and witnesses in England were not permitted to have any contact with the prosecution before they stepped into the witness box. We have developed a policy for the giving of reasons for decisions that is more progressive than those of the Republic of Ireland or Scotland, and we are moving to develop it further. We also offer an automatic review of a no-prosecution decision to all victims.
1053. The PPS is the lead organisation in the criminal justice system in the introduction of and training for special measures. We trained police, the judiciary, our own staff and prosecuting counsel to ensure that special measures became a routine aspect of cases. We continue, as you have heard from George and Andrea, to work with police on special measures training. It has been one of the most significant developments for victims and witnesses in giving evidence in our courts.
1054. Our formal paper gives other examples of our strong commitment to victims and witnesses, and I ask you to consider them. In particular, you will see that all our prosecutors have received training from Victim Support and Support after Murder and Manslaughter (SAMM). The PPS knows and understands the issues in this area. Every prosecutor is aware of victims and witnesses each day. At each sitting of every Magistrates' Court and the Crown Court, cases are listed for contest. Victims and witnesses will be present in each court, and they will be taken through the case by our public prosecutors and staff members. They will have the process explained to them and will be informed of the outcomes and what happens in court.
1055. As a prosecutor, we see every aspect of crime and deal with the consequences of that crime for victims. We deal with victims directly, in consultation and via telephone calls and letters. We know their fears and frustrations. We know about the distress that is caused by the crime, and we recognise the distress that is sometimes caused by the process. Prosecutors empathise with victims; you cannot be a prosecutor, read those cases and talk to those people without understanding what they are going through. Most are driven by a commitment to ensuring the best possible outcome for victims and witnesses. Many victims receive a very positive conclusion to their

- case. However, there are some for whom the experience of the system is negative and for whom the outcome is not satisfactory. In some cases, it is impossible to meet the expectations for outcomes, for example, in cases in which the evidence is not strong enough for a successful prosecution.
1056. Prosecutors are not unaware of how being a victim affects people's lives. There is a strong desire among prosecutors to ensure that they do all that can be done to make the journey through the system as painless as possible. However, we recognise that an adversarial system of criminal justice creates conflict and challenge for victims and witnesses. The prosecution service also understands how vital it is for the whole criminal justice process to have victims and witnesses as participants. If the witnesses do not come forward or are not able to give evidence, there can be no case and no prosecution.
1057. It has been said that victims and witnesses should be at the core of the criminal justice system. In one sense, we agree, for without the evidence that they provide, there is no system. The evidence, in fact, is at the core of our criminal justice system. Our adversarial system is designed to prove that someone legally has committed a crime and should be dealt with for that. The system can deal only with legal guilt, not actual guilt. That may be difficult for victims to accept.
1058. The reality is that the criminal justice system is adversarial. Many victims emerge bruised and battered from their engagement with the system. Indeed, their experience, including the case outcome, may adversely affect their perception of how they were treated. The PPS takes that seriously. We must act on those perceptions, but we must place them in the context of other important principles that are vital to a fair system of justice, such as the presumption of innocence and the right to a fair trial.
1059. Devolution has, understandably, led to a strong local pressure to meet the expectations and aspirations of victims. However, the justice process cannot always accommodate all of those expectations and aspirations while continuing to meet the demands and obligations to an accused whose guilt is yet to be determined. While the PPS recognises that it can and must do more, recognising the limitations is more likely to drive the type of change that is sustainable and deliverable over the long term. It must also be recognised that the prosecutor has duties to the court and in law that extend beyond the representation of victims and victims' rights.
1060. I will conclude by referring to the environment of the current criminal justice system. Many of the issues that emerge from conversations with victims and witnesses, such as the lack of communication and explanation, result from the time it takes for the case to move through the system. Like all justice organisations, the PPS seeks to ensure that delay is minimised. However, significant barriers are built into the architecture of the system, and you have heard about some of them from Andrea and George. In this jurisdiction, we retain a cumbersome committal procedure in the transfer of cases to the Crown Court. There is no statutory case-management process, and a reluctance to deal robustly with defendant-led delay. The sentencing guidance for early pleas is discretionary, and there is no incentive financially or in sentencing for an accused to address the issues in a case at an early stage, and certainly not before it is listed for trial. Those issues must also be part of the ongoing changes necessary to ensure that victims and witnesses continue to have an improving service within the criminal justice system.
1061. I ask the Committee to recognise the ongoing commitment of the PPS to improving the experiences of victims and witnesses, our commitment to the projects emerging in the near future, such as our victim information portal and the Northern Ireland witness care unit, and our willingness to work with our criminal justice partners and the

- voluntary sector in the area of victims and witnesses. Thank you for listening. We are happy to take questions.
1062. **The Chairperson:** Thank you, Mr Burnside. Can you talk me through how you keep victims and their families informed? You touched on the community liaison teams, but when a case is passed from the police to the PPS, how is the victim kept informed of court hearings and given an understanding of what is happening on their day in court? What liaison is there with the victim?
1063. **Mr Burnside:** At the moment, under our service rights to victims, when the file is received by the PPS, the victims are told what the process is and they are given the number of the community liaison line, which they can ring if they have any queries about the case.
1064. **The Chairperson:** How are they told? Are they told in writing?
1065. **Mr Burnside:** They are told in a letter. The information is in a wee box at the top of the letter, which gives the number of the contact line and information on a number of different ways of contacting us. Once a decision to prosecute or not to prosecute is taken, a further letter is sent to inform the person of that decision. Again, if the decision is not to prosecute, they are invited to contact us if they have any questions. If they are unhappy with the decision, they are informed that a review is possible, and a little leaflet about the role of the Public Prosecution Service is sent along with that letter. Also, with all our letters, we send an information leaflet about Victim Support, which victims can contact if they are seeking support in areas in which we are unable to provide support.
1066. **The Chairperson:** To whom in the PPS do they speak when they ring the contact line?
1067. **Mr Burnside:** In the PPS, the initial point of contact is the community liaison team, and those teams are based in each of our regional offices. They are trained in how to deal with phone calls and enquiries, and they know to whom and to which area enquiries should be referred. If, for example, they are able to assist in the listing of a case or pass on information on the outcome of a case, they will do that directly. If it is an issue that needs referred to a prosecutor, they will refer the caller to the prosecutor who took the decision.
1068. **The Chairperson:** When the decision is to proceed with a prosecution, what liaison is there between the prosecution side and the victim and their family? Are they told that there is going to be a court hearing, and are they told about every court hearing? We have heard from families, including the Rankin family. That family went to every court hearing in the murder case. They had to go themselves to find out when there was an adjournment and when the next hearing date was; nobody ever told them. It is only because they went to court themselves that they were ever told anything; the PPS never told them.
1069. **Mr Burnside:** We do not have a system at the moment for informing every single victim of every single court hearing. Where we are aware of victims who have an interest in attending hearings — many victims do not — we will inform them of hearings. We are introducing our victim information portal, an online information system designed to do exactly that for people who want to be told about every single hearing in a case. However, in many, many cases — obviously, much less serious cases than the one to which you referred — people are not interested in every hearing. They want to know the important listings of a case. Given the number of adjournments in cases, it would be impossible for us to inform individuals by way of a letter as a general policy.
1070. **The Chairperson:** How do you decide which victim is interested and which victim is not? Is it up to them to come and tell you that they want to be told, or do you proactively ask each victim how they want to be kept informed throughout the process?
1071. **Mr Burnside:** Currently, we do not do a witness needs assessment. One of



- the most exciting developments in the witness care units is that a witness needs assessment will be done. There, the names of the people who want to be informed, and the method by which they want to be informed, will be recorded. We will use that information to keep people up to date. At the moment, if a victim contacts us and asks us about cases, we will keep them informed, or they will have spoken to the police officer and that will be recorded in the summary of the case. If it is indicated that they want to be informed, we will keep them informed during the life of the case.
1072. **The Chairperson:** The Rankin family said that once they had identified the solicitor, I think, who was pulling all the casework together, the information they got was excellent. Once they had a point of contact, they were able to get that information. However, it was only through their persistence that they were able to find that out. People have come to us to say that, when their case was going through the system and the family wanted to speak to the prosecutor or senior counsel, counsel told them, "That is not my job; don't ask me." Obviously, that is a pretty poor experience. Although they then understand that, actually, it is not necessarily senior counsel's job to tell them that, that experience has already been pretty bad. What are you going to do about that?
1073. **Mr Burnside:** Senior counsel are independent prosecutors. We have a comprehensive training programme in respect of our brief to counsel, victims and witnesses and our responsibilities. Their responsibilities to victims and witnesses are part of that.
1074. **The Chairperson:** You say that they are independent. Yes, they are, but they are paid by the taxpayer.
1075. **Mr Burnside:** They are. That is why we insist that they go through our witness training processes with us.
1076. **The Chairperson:** So the standards that you expect from them should be higher.
1077. **Mr Burnside:** We have a set of advocacy standards, which the Bar has agreed to and which include provision of information to victims and witnesses.
1078. **The Chairperson:** Another point that has come through is that victims feel excluded from the whole smoke-filled atmosphere of the dark room where deals are cooked up. How will that be addressed? How does the PPS address concerns around how the actual charge or sentence is produced when it is not what the victim expected?
1079. **Mr Burnside:** I can understand that that is the perception of individuals. I think that part of our history is that it was our view that victims and witnesses did not want to be involved with the unwieldy process of coming to court and the various applications and challenges and so on and that, if we provided them with a room that was well furnished and with plenty of coffee, we could come in and tell them what had happened. That was the way in which we viewed what people wanted. It was only recently that we realised that empowering victims and witnesses by making them part of the decision is a vital part of our job. We cannot make any decision to change direction in a case unless we have taken into account the views of the victim or the victim's family. That is part of our new advocacy standards. We have, in the past, had cases in which that has not happened. There is no question about that. However, it is quite clear for everyone now that, in any case in which there is to be a change — for example, the acceptance of a plea to a lesser charge — the victims must be informed about how that is happening and why that is happening. Their view must be taken and their view must be given weight in considering that decision. Of course, those are issues of applying the test for prosecution to the case and not issues of deals, which we would not do.
1080. **Mr Eastwood:** We all agree that we want to have as much public confidence as possible in the criminal justice system. How we treat victims is at the heart of that, and it is essential to get it right. Some of the people who contacted us

- as part of the review have said that formal and legal recognition of the status of victims would go a long way to help to enshrine their rights and ensure public confidence and the confidence of victims in the system. What do you say to that?
1081. **Mr Burnside:** We approve of whatever measures are taken to formalise in statute or in a victim's code those rights and processes. We are looking at introducing a prosecutor's pledge to set out standards that we will apply in every case, and that includes our relations with victims and witnesses. We hope to do that before the summer.
1082. **Ms Una McClean (Public Prosecution Service):** I am sure that you are aware of the code of practice for victims, which was launched by the Minister of Justice last year. It is a good step forward in communicating to victims the minimum standard of rights that they can expect to receive across the agencies. I understand that that is likely to be put on a statutory footing at some stage this year. That will be another step forward. We also have the EU directive on victims' rights, which will be adopted by the UK and the Republic of Ireland, and that will be another step forward in emphasising the importance of victims' rights.
1083. I do not know, necessarily, that the answer to all the negative experiences that we hear from victims is more legislation. People probably need practical advice and support, clear guidance and an empathetic attitude. I am not sure that statute is the answer, but it is good to see that those other steps are embedding victims' rights into our system.
1084. **Mr Eastwood:** On a slightly separate issue, are you confident that you have all the procedures in place for any interpretation services that may be needed for witnesses and victims whose first language is not English? Some of the people who came to us said that it is not quite there yet.
1085. **Mr Burnside:** Una, you are the expert in that area.
1086. **Ms McClean:** I do not know about expert, but we have a contract in place for the provision of interpretation services, and we provide an interpreter free of charge to all victims and witnesses in cases in which we are prosecuting. This week, we surveyed staff and asked for feedback on any negative experiences that they have had with that service. We are quality assuring that as well. In every correspondence that we send out to witnesses — even to those with local names — requiring them to attend court, the front page has a paragraph in, I think, 13 of the most commonly used foreign languages advising them of the contents of the document and the importance of making contact to receive advice about it.
1087. **The Chairperson:** Stephen, I welcome the fact that you are the victims' champion and that you are at a senior level. When was that post established or has it always been there? When were you appointed to it?
1088. **Mr Burnside:** It has not always been there formally. You will be aware of the CJINI report that recommended that victims' champions be established at a senior level. The director appointed me as a result of that report.
1089. **The Chairperson:** When was that?
1090. **Mr Burnside:** It was after the report was issued last month.
1091. **The Chairperson:** Who was victims' champion before that?
1092. **Mr Burnside:** Before that, de facto, I was. Because I am responsible for regional prosecutions, witness care units, the victims' information portal and so on, I was, de facto, the champion.
1093. **The Chairperson:** Whatever processes are in place in the PPS, you will be filtering them to see how a victim would feel and whether things need to change.
1094. **Mr Burnside:** Yes.
1095. **The Chairperson:** Obviously, you will engage with different victims' groups to get that feedback.



1096. **Mr Burnside:** Yes. I have already issued instructions to our policy section that every new policy development proposal must contain an impact assessment of how it will affect victims and witnesses.

1097. **Mr Dickson:** Thank you for your presentation. I appreciate that, as you have set out to us in paragraph 1.3 of your submission, sometimes there is a difficulty for the general public and perhaps specifically for the victims or witnesses, in getting their head around and understanding the role of the Public Prosecution Service. The service is not actually their barrister or solicitor; you act on behalf of wider society, which has an interest in bringing that case. That is sometimes a difficult concept to get across to people. I would like to know exactly how much effort you put into getting that across to people — how much time is taken by someone to sit down with a victim or witness to explain that role.

1098. Given recent experience, and there must be lots of other cases; we have heard from various victims' organisations. We have heard about one family, whom the Chair referred to. I understand that we are likely to hear from another, the Devlin family. In both of those recent cases, and presumably in many others, there has been deep dissatisfaction with the role of your organisation. In fact, I venture to suggest that, in respect of the Devlin family, that case showed that your organisation must make substantial change, even in the whole area of the issue that you referred to. There is concern about such cases, where you believe that the evidence was not strong enough to bring about a conviction. Clearly, in that case, there was conflict between perceptions, as to whether the evidence was strong enough, or whether it was appropriate to proceed regardless of the strength of the evidence.

1099. That is an area that needs to be prised open. It is, perhaps, one of those dark, smoke-filled rooms to which the Chair referred in respect of other matters. It needs to be opened up so that the public can see and have absolute confidence in your doing that job. Again,

I appreciate that you are not there to represent the individual, but wider society. However, wider society, by and large, expects you to do what the victim or witness to a crime would generally expect you to do. In my view, at the end of the day, there is not that big a divide between the two.

1100. You referred to new standards. How far are those new standards set, and are they driven by those recent cases, which have clearly caught the public mood and view in respect of the organisation that you represent? We have heard from the PSNI and other organisations, and from the Court Service which, despite the difficulties with its physical estate, has made a lot of strides forward to deal with the concerns of victims and witnesses in the criminal justice system. It seems to me that your organisation is not quite there yet, or maybe not even there at all, and there seems to be a lot more work that you need to do. I welcome your role in all of that.

1101. What external scrutiny of your role is there? It seems, for example, that in the Rankin and Devlin cases, it was up to them, either through Victim Support or directly themselves, to champion their cases. It seems to me that there should be external scrutiny of what you do, given some of the dramatic failures which you have had.

1102. **Mr Burnside:** I do not accept the proposition that we are not at the forefront of changes for victims and witnesses. From 1999, with the introduction of special measures, it has been the Public Prosecution Service that has fought for victims and witnesses and the change in the approach to them. Through our interactions with other agencies and, in particular, with courts, our organisation went to the Court Service and asked that prosecution victims and witnesses have special rooms set aside outside the normal run of courtrooms, so that they would not have to meet the accused and his or her representatives in the court. We have taken tremendous steps, which have been outlined in our document, in order

- to ensure that we meet the needs of victims and witnesses.
1103. I will go through the specific questions that you asked. To explain the role of the Public Prosecution Service, a leaflet goes to everyone who receives a letter from us in respect of prosecutorial decisions. It explains what our role is, how we represent the public and not specifically the victims and witnesses, but that we have standards in respect of victims and witnesses.
1104. Take the Rankin family and the Walsh case, which was a very significant case lately; the Public Prosecution Service took the key decisions in that case to get the evidence required to be able to successfully prosecute. We worked very closely with the police in pre-charge advice, prosecutorial advice and about the DNA and phone call evidence that enabled that case to be successful. You only need to look at the frustration of the family in the context that the defendant was allowed to change solicitors five or six times. We have a letter from the Rankin family, and I will read you the last couple of paragraphs of it, in which they refer to my predecessor Raymond Kitson:
- “We would like to pass on our gratitude to Raymond and the other members of your team for the significant role they played in getting justice for mammy by helping secure the conviction of Karen Walsh. The long and difficult journey for our family has been made more bearable by the sincerity and diligence of the PPS. We wish you continued success in the work that you do, and know that other families such as ours will receive justice and care from your team in the future.*
- With our sincere gratitude, the Rankin family.”*
1105. Once we understood the pressures and problems the family faced through the delay in the court system, which was not engendered by the prosecution, we were in constant contact with them, explaining the case. That case ended successfully, but there was a point in that case where decisions made about the prosecution could have had a significant impact. Had those decisions turned out to have had a significant negative impact on the case, we would have been criticised for that.
1106. Prosecutorial decisions are not easy: they are not a science and they are not something that can be broken down into formulae. For example, the Devlin case was a very difficult one on a difficult area of joint enterprise. You have seen difficulties in respect of that in the press only yesterday and the new guidance that we, along with the CPS in England, are seeking to give. That case is still in the Court of Appeal. There may be a retrial and there are some very significant legal developments in the course of that case that will affect many other cases.
1107. It is entirely proper for people to disagree with our decisions, but it is up to us as an organisation to explain them. As I said, we have taken significant steps in the past three or four years to explain every decision not to prosecute in serious cases to the victim, without request, and we are seeking to extend that to other non-serious cases. The director himself went to the press and explained the reason for the decisions in the Devlin case and the history of it, and I am more than sure that our new director is totally committed to openness in respect of our decisions and to provide explanations of them when we are challenged.
1108. I am not aware of your having written to our organisation, but I know that colleagues of yours on the Committee have. I have been personally involved in writing detailed explanations to people about prosecutorial decisions that would appear difficult. We are committed to doing that and we will write to public representatives. Our decisions are tested day and daily in the courts by judges and by experienced defence counsel; the validity and basis of them is challenged.
1109. We have the Criminal Justice Inspection. The PPS is currently subject to 15 different inspections, and has to deal with the consequences of and the preparation for those. We are undergoing a fundamental inspection, starting on 6

February, in respect of the quality of our decisions and our corporate governance. We are probably one of the most inspected prosecutorial organisations in the British Isles. If you are working as a prosecutor in Humberside or Cardiff, you would be inspected once every seven years. There is a significant public focus on the work of the PPS in Northern Ireland. We welcome that; it is why we are here and why we speak constantly to the non-statutory organisations. We work very closely with all of them. We have had training by and for Victim Support. We have had SAMM in, and we have also worked with Women's Aid on domestic violence issues. We are totally committed to ensuring that we take lessons from those organisations and apply them to our work.

1110. **Mr Dickson:** You said that the reasoning process to decide to prosecute is complex and depends very much on the individual case. Will you talk us through, in general terms, the reasoning behind the decision to prosecute or not? Will you tell how risk averse you are in not prosecuting?
1111. **Mr Burnside:** The test for prosecution involves two stages. The first stage must be satisfied before you move to the second stage. The first stage is the evidential test, which involves considering whether there is sufficient evidence to sustain a reasonable prospect of a conviction. I guess that that is what you were referring to when you talked about being risk averse. There is not a figure on how that should be calculated because there cannot be, but our estimation is that if you are more sure than not that there will be a conviction, you will probably prosecute.
1112. **Mr Dickson:** Do you set that bar higher or lower than your colleagues in other parts of the United Kingdom?
1113. **Mr Burnside:** The test is the same throughout the British Isles, and the conviction rates are broadly similar across the four jurisdictions. The second part of the test is to consider whether it is in the public interest to prosecute. If you have enough evidence,
- you make a decision as to whether it is for the benefit of society as a whole, essentially, for that case to be taken. Those are some of the more difficult cases.
1114. **The Chairperson:** Is there a fear of criticism that prevents you from taking cases that, on balance, perhaps you could have? Is there a reluctance in the organisation?
1115. **Mr Burnside:** There is always a balance. It is always a judgement of the weight of evidence in a particular case. The assessment is based on the statements and whether you have consulted with the victim or witness. On occasions, you may take into account the views of police or independent counsel. By and large, police officers do not complain that we do not prosecute enough. In any case, it is always a balance. You do not want to put someone through the whole process if you know that there will not be a conviction at the end. It would be wrong to fire every case in which someone made a complaint into the courts.
1116. **Mr Dickson:** In how many cases do victims or their families engage their own legal advice to check, from their perspective, what you are doing? Do you have statistics for that? Will you give us some reasoning for why people do that?
1117. **Mr Burnside:** Obviously, in cases in which we are prosecuting, families tend to seek their own legal advice as to whether that is right. That situation would usually arise when someone was seeking to review a no-prosecution decision. It is not a common feature, largely because there is not a level of expertise outside our organisation in respect of making prosecutorial decisions. Of course, where they do that, we enter into a discussion, where we can, with whomever they are speaking to about the relative merits and strengths of the case. I do not have absolutely accurate statistics, but it is pretty uncommon.
1118. **Ms McClean:** I would like to add two short points to Stephen's answer. On the question of how much time we

- spend explaining our role, and so on, it is important to note that we provide a programme of training to voluntary sector organisations, such as the Young Witness Service, which waits with young witnesses at courts. It is run by the NSPCC. We train all its volunteers who go through that programme on exactly the sort of thing that Stephen has explained. We inform them better about how we make decisions, the type of issues that face us and what our role is in relation to victims and witnesses so that they can assist the victim and witness to understand better what happens at court.
1119. Secondly, there has been a suggestion that we may lag behind other organisations in dealing with victim and witness issues. It is worth pointing out that, in the most recent Northern Ireland victim and witness survey (NIVAWS), victims and witnesses were asked whether they were treated courteously by the PPS lawyer, and 93% responded that they were, which is, I think, the second-highest statistic in the entire report. Therefore, I do not think that it is a matter of not having the right attitude across the board. Obviously, people make legitimate complaints, and we need to look at those. However, across the board, 93% is a high level of satisfaction. It is important to point that out so that public confidence is not damaged by misinformation.
1120. **Mr Dickson:** I have no doubt that people are treated courteously. It is about the extent to which the process is explained to them and the amount of contact that they have. Courteousness is not an issue. I am quite sure that people are very courteous.
1121. **Ms McClean:** In preparation for today, I read transcripts of the evidence given by some of the other witnesses. A witness from one of the voluntary sector organisations referred to victims and witnesses being treated discourteously by PPS lawyers and the judiciary. I just wanted to make that point. There are other statistics relating to the provision of information. I have them here, but I will not bore people with the exact figures.
1122. **The Chairperson:** Are you able to break down the satisfaction levels according to the different categories of crime? Does it vary?
1123. **Ms McClean:** NIVAWS does not go into that level of detail. As I am sure you aware, it excludes certain categories of crime, namely the most serious, including sexual offences and those involving young people.
1124. **The Chairperson:** Murder, for example.
1125. **Ms McClean:** It is an inappropriate methodology for that type of case.
1126. **The Chairperson:** That concerns me, particularly in cases of serious crime. If you have read the transcripts of the previous evidence sessions, you will know some of the responses that we got. One woman was told emphatically that the case had nothing to do with her, even though it was her son who had been murdered. Another family of a victim who had died was told, "The victim is dead, and we are prosecuting on behalf of the state." It was very clear to them, in their early engagements with yourselves, that they were a nuisance to the process. The only point that engagement happened was when the PPS wanted to use them to provide evidence to secure the conviction.
1127. **Ms McClean:** We have made progress in dealing with bereaved families. We listen to the victim's voice. We take on board the feedback that we receive, even in individual cases. We have made some changes in how we deal with cases. For example, in a case of death, we now have an agreement with police that it is the police family liaison officer who will relay the prosecutorial decision to the family representative of the deceased, rather than the family receiving a letter from someone in the PPS whom they have never met.
1128. We also send an extra letter to families who have been bereaved when a person has been charged. In that letter, we explain the role of the PPS and give them a contact point, because it is likely to be a fairly lengthy process before they get the next stage of information.



- I am sure that you are familiar with the bereavement guide that was developed in conjunction with SAMM. All our prosecutors and relevant administrative staff have received training from SAMM. We also engaged with Cruse Bereavement Care recently with a view to developing a training package to assist our staff in dealing with people who have been bereaved by crime.
1129. **Mr Burnside:** Clearly, it is unacceptable for someone to be told, "This case has nothing to do with you." If such a complaint were made, we would treat it very seriously, as I am sure that you would expect us to.
1130. As soon as the file comes into our organisation, a family who has suffered a death is now offered a face-to-face meeting at their convenience with the regional prosecutor, who is the person in charge of all prosecutions in that area. That meeting is to brief them initially on what happens with the file and the PPS, and to provide a point of contact. We recognise that in cases in which we do that, such as the Walsh case, there is a better outcome for the victim. We seek to replicate that process in other cases involving deaths: murder cases, manslaughter cases and cases of causing death by dangerous driving.
1131. **Mr Dickson:** I want to pick up very briefly on something that Una said. You said that you asked the police family liaison officer to explain to the family why you are not prosecuting in the event of a bereavement.
1132. **Ms McClean:** Not quite. Instead of sending out a letter that gives our decision, which could be a prosecution or no prosecution, we contact the police family liaison officer. That officer will either bring the letter to that person's house or explain the decision to them, rather than the letter just arriving on the doorstep.
1133. **Mr Dickson:** Do you think that that is an appropriate level of care? I appreciate that a decision to prosecute is probably better handled by a police family liaison officer, but, in cases when the decision is not to prosecute, do you not feel that it would be appropriate for a member of your staff to accompany that police officer? That police officer may not be able to explain the legal nuances of why the decision was made. I am a bit concerned that you are sending letters through the family liaison officers and that you are seem to be taking a step back.
1134. **Ms McClean:** I understand what you are saying. That was agreed because it is better service for a person who has built up a rapport with a family to deliver what may be bad news — it will certainly be traumatic news — to that family. That is definitely better than receiving a letter from us.
1135. We do not rely on that procedure instead of providing information from our office; rather, we follow that letter up with information from our office, and our letter contains a point of contact for that family if they want to contact us to arrange a meeting. Other correspondence is put on hold, pending that happening. For example, if it is a case of prosecution, the summons that goes to the defendant is put on hold until we are notified by the police that the family have been notified. That ensures that families hear about decisions before defendants and before they read about it in the paper or hear about it in their local communities. We see that as a step forward.
1136. **Mr Dickson:** I appreciate that that is a step forward. Nevertheless, I am somewhat concerned. Surely, you cannot be suggesting that that is the first time that those families would have met someone from your organisation. I am a little concerned that you do not accompany family liaison officers or have someone there, as appropriate. If there had been face-to-face contact between your organisation and the victim or the victim's family, I am concerned that, in cases in which there was a no prosecution and there had been a bereavement or a highly emotive situation such as sexual assault, you do not see fit to send an appropriate member of staff along.

1137. **Ms McClean:** Victims or their families would not normally have met someone from our office. Therefore, it is appropriate that that news is delivered through a family liaison officer.
1138. **Mr Burnside:** Where there has been previous contact, we take on that role. It is a question of identifying the best person who has a relationship with the family to provide information that may be traumatic for them. In every serious case, we offer a meeting to explain decisions of no prosecution.
1139. **Mr Dickson:** Roughly how long does it take from the event to the decision being taken whether to prosecute?
1140. **Mr Burnside:** It varies enormously depending on the type of case.
1141. **Mr Dickson:** Would it be weeks or months?
1142. **Ms McClean:** In summary cases, it is weeks. The average time is weeks.
1143. **Mr Burnside:** In more serious cases it would be —
1144. **Mr Dickson:** I am talking about exceptionally serious cases. I am trying to tease out the point that you made that victims or their families would never have met you. I would have thought that, in highly serious cases, they would have met you long before you reached the decision whether to prosecute or not.
1145. **Mr Burnside:** It depends very much on the case. There can be cases in which there is no evidence that would ever possibly justify a prosecution. We have a streamlined filing arrangement with the police for such cases. They bring the case to us and, as it is an obvious decision, we will take it very quickly. In those cases, that period of time may be very short. In cases that requires a longer period of deliberation, there may or may not be contact with us, depending on the family's wishes. It varies in different cases, and part of the problem with the criminal justice system is that all the cases are not the same. There will be differences in how they are dealt with. When there are such discretionary differences, you will always be open to making a wrong move.
1146. **Mr Dickson:** Equally, it is important that your processes are nuanced to the victims or witnesses, rather than just being tick-box exercises.
1147. **Mr Burnside:** Absolutely.
1148. **Ms McClean:** The development of witness care units would allow further scope for a more individualised and targeted needs assessment. That would highlight what sort of contact is needed and wanted by individuals. Some people do not want contact and should be allowed to opt out. Others want a high level of contact. We do not deny that there is room for improvement, and such assessments would be a step forward.
1149. **Mr Burnside:** I want to say a few words about witness care units that might be helpful. The witness care units in the CPS in England deal only with cases in the system that are set for trial. That is the only information point that witness care units in England deal with. We have the opportunity in Northern Ireland, in conjunction with the police, as you heard, to extend those units to the concept of a single point of contact. We are working with the police on that. It is because of the Causeway system that we will have the information available to our central unit. We are also working with the Probation Board in order to see whether that can be extended to the end of the process as well, so that there is literally a single point of contact for effective victim and witness needs. That is Northern Ireland taking a step ahead of other areas, partly because we are a small jurisdiction and partly because we have the Causeway system for electronic information exchange, which is very beneficial.
1150. **Ms J McCann:** I just have one question. As Mr Eastwood said, care and support for the victim has to be central. A recent Criminal Justice Inspection report shows that just over half of reported rapes are sent by police to the PPS for a decision, and, of that number, only 25% proceed to trial. Of those cases that go to court,



- only 57% result in a conviction. It also states that there is an overall conviction rate of just 7% of reported rapes in the North. Are you concerned about that?
1151. **Mr Burnside:** Yes. I have given evidence to the previous Justice Committee on that very point. The 7% rate that you quote is an attrition rate. There are a lot of cases that come out of the system.
1152. **Mr Wells:** Sorry, I do not understand what that means.
1153. **Mr Burnside:** The conviction rate includes those cases where you decide to prosecute and you either get a conviction or the case is dismissed. The figures at that time — it is now slightly higher — were 57%. We would call that the conviction rate: from the point at which you have taken the decision to prosecute. Rape is a very difficult crime to prosecute. It tends to happen in cases where there is no independent evidence. It tends, in very many cases, to be one person's word against the other. In a system where you are required to prove beyond a reasonable doubt that a crime happened, it is difficult to prosecute cases. That is one area in which we will prosecute cases when the standard is perhaps slightly lower than the standard that we were talking about earlier because we think that people should be given the opportunity to give their evidence and have it tested by a jury.
1154. A lot of the cases that are reported to police either turn out not to be rape but some other offence, or the injured party withdraws their evidence very quickly afterwards, or later on down the line. Very many of the cases that are reported to us are cases where two people have been out in a drinking establishment, one or both may be intoxicated, something happens, and a rape is reported. In our adversarial system, there is simply no way to prosecute cases that fall into that category. We take sexual offence cases very seriously. We have specially trained sexual offence expert prosecutors, both taking decisions to prosecute and prosecuting those cases in court. It is very difficult to get a rape conviction in a jury trial. It is something that we work on all the time. We are happy to be associated with the SARC project. We are working very hard to ensure that the people who are speaking to rape victims at an early stage have in mind not only the treatment of injury or the gathering of evidence, but what is best to allow a prosecution down the line by gathering evidence and ensuring that proper statements are taken. We worked very closely with the police in drawing up a policy in respect of the prosecution of rape offences because it is such a serious issue.
1155. **Ms J McCann:** I am very concerned about those statistics. You give the reasons why certain cases are not brought to court, so I do not know the ins and outs of it, but very few even proceed to trial. I know a lot of people who feel that their case is strong, but the PPS does not pursue it and says at a very early stage that there is a lack of evidence. A closer look needs to be taken at that and at why that particular type of crime, which, to me, is very serious, has such a low prosecution rate.
1156. **Mr Burnside:** It undoubtedly does. I am happy to engage with you outside the Committee to discuss those issues. We would also find that useful.
1157. **Mr B McCrea:** There seems to me to be a sense of complacency from the PPS. I have been involved in a number of cases, and I understand that people generally try to do the best thing and work quite hard. However, the difficulty is in how you get that message out not just to the victim but to the general public. Have you considered whether there is any merit in having some form of ombudsman or oversight committee to review cases so that you could respect the confidentiality of victims or alleged perpetrators and get a second opinion?
1158. **Mr Burnside:** Obviously, if the Government put in place an ombudsman or, perhaps, extend the Attorney General's powers or whatever, we will fall in with that arrangement. I should point out, however, that in our office,

we have significant review, particularly of important decisions, by experienced and senior lawyers. In its first baseline inspection of the PPS, the inspectorate found that a very high percentage of correct decisions had been taken. That inspection was done by Her Majesty's CPS inspectorate from England, and our standard was higher than that in its local CPS reports.

1159. **Mr B McCrea:** It is more nuanced than that. I am worried about a position in which the PPS adopts a target success rate — let us say a 95% rate for successful prosecutions — because you are, effectively, being judge and jury if the threshold is set that high. I notice that, in your evidence, you state that you adopt a different standard for rape because you think that it is right that people should be allowed to put their evidence to court. Many people in this country believe that it is actually your right to be tried by a jury and to give your evidence. You are militating against that.
1160. I am not trying to be unhelpful to the organisation. However, I am pointing out to you that, for many people, you are a shadowy organisation that nobody knows very much about. We understand the PSNI, the courts and the judges. However, the PPS is a complete mystery — it is unaccountable and largely unknown. That is the problem in many victims' perception of justice.
1161. **Mr Burnside:** I absolutely agree with you. We are an organisation that, in the past, was very low profile. We have not gone out into the public domain to explain our role to people. During the past five years, we have attempted to change that. We have a full community outreach programme. I have been particularly involved in Belfast, where I was regional prosecutor, with a large number of community groups to try to get the message across about what our organisation is. However, it is a long, slow process. People do not want to engage with us, because, obviously, if they do, they are in some sort of difficulty.
1162. **Mr B McCrea:** The PSNI is overseen by the Policing Board, the Police Ombudsman, internal reviews and the media. All that oversight is designed to reassure the public that its work is being done properly, for want of a better word. In paragraph 2.10 of your written evidence, you make the salient point about why it is difficult for you to explain your reasons, particularly in cases where there is no prosecution. You are quite clear when you say that no deals are done as such. However, I am certainly aware of instances — let us say in domestic violence cases, although it could be in any case — where the perpetrator may believe that a higher charge is appropriate, but you, on investigating the evidence, will reduce the charge to the level at which you believe you can secure prosecution. That is not exactly a deal, but it is bringing the bar down from what the victim of the crime feels. You may explain to that person why you are doing it. However, they will be not be expert in the law, and, I assure you, they will not accept that. The Committee has received communication from people whose son, for example, has been killed. They think that it was murder, but the prosecution and, eventually, the courts said that it was manslaughter. The technical difficulties of that are absolutely lost on the family. What I am saying to you is that I think that you should welcome a trusted, confidential, legally informed third party who is able to review your decisions and to whom people wanting to appeal could go and say, "Is this appropriate?". If you have laid your case out properly, you should have no problem with that.
1163. **Mr Burnside:** We certainly have no issue with putting our decisions in front of anyone. As I say, we explain our decisions. The basis of a prosecution must be the evidence. Irrespective of what individuals may think about the evidence, it has to be about weighing that evidence to meet the requirements of an individual charge. I understand that, for a lawyer, the distinction between murder and manslaughter is almost self-evident, but for laypeople, that is a

very difficult concept to grasp. In those circumstances, we try to explain to people why there has to be that view. The law is the law; you have to prove the elements of any offence that you charge beyond reasonable doubt. I am quite sure that if we started prosecuting people for murder where the evidence supported only manslaughter, not only the courts but those people's public representatives would be completely upset.

1164. **Mr B McCrea:** I can buy in to that argument. However, what I am saying to you is that you may convince the people around this table, but there is a real problem with what the public think. Every week, people come to us and say that justice was not seen to be done, because the perpetrator got off with it, whether it was rape — Jennifer mentioned the statistics on that — or domestic violence. It is really traumatic for people to report domestic violence and then for the alleged perpetrator to get off with it for whatever reason. That is an issue.
1165. We might understand the legal technicalities behind the charges or why that happened, possibly because there is a presumption of innocence or some other legal position, but you cannot explain it properly. So, surely it would be beneficial to have a third party involved, as we have with the ombudsman. The large majority of what happens in the police is referred to the ombudsman, who investigates cases and comes back with the findings. The office largely finds that things have been done right. Surely something like that would help with the legal situation that you find yourself in and would reassure the public.
1166. **Mr Burnside:** As I say, having looked at the Criminal Justice Inspection report of our decision-making and at the many internal reviews that have been done, we would welcome the appointment of an ombudsman or an extension of the powers of the Attorney General or whatever. Other people check our decisions. As I say, the judges do so day and daily. The defence challenges what we say. Defence solicitors write in very frequently about our decisions, mostly

to say that the charges are too high and should be reduced. We have a lot of media interest in our decisions, and a lot of public representatives are also interested in them. As I say, we would welcome those suggestions, so you do not have anything to fear on that.

1167. **Mr B McCrea:** I welcome your statement that you would welcome an ombudsman-type approach. Finally, although the CJINI may look at things, it does so in generality. However, individual victims of crime are worried about the injustice or difficulties in their circumstances. That is the area that they want somebody to look at, just to make sure that things are being done right. I think that it is the jam in the middle of the doughnut that is not being addressed. The courts and the judicial system are open to public scrutiny, as is the PSNI. The PPS needs some independent method of reassuring people that the majority of cases are taken appropriately and in the right way. I am absolutely certain that that is the case. There are legal constraints around what you can say, so we need to find a better way of dealing with it.
1168. **Mr A Maginness:** I welcome your contributions, Mr Burnside. The PPS has done a lot of good work over the past number of years to try to accommodate witnesses and victims in particular. That is to be commended, and further work needs to be done.
1169. We in this Committee have to be certain in making the distinction between victims and witnesses. Sometimes we conflate both, which I think is wrong. We should be making that distinction. Probably, at first instance, a prosecutor's natural reaction is to accommodate the witness, because the witness is essential in the process of trying a person and getting them convicted. Perhaps the secondary focus is on the victim themselves. The PPS has now advanced the interests of victims. However, as a health warning to the subject, the Public Prosecution Service represents the state and the community at large. It does not represent victims. Now that we are focusing a lot on victims, to some extent there is a

- danger that we will start to conflate the interests of the state or the community at large with the interests of victims. There is a tension and a danger therein. Are you aware of that? How would you address that?
1170. **Mr Burnside:** I think that there is a conflict in the very prosecution process between supporting the rule of law, ensuring that the defendant gets a fair trial and is properly represented to make his case, what victims expect or aspire to in the system, and, perhaps, the sentence that they think an individual should get. I think that it is a difficult area, but, with the safeguards that exist for the courts to protect individuals and the developments that we have made in our victims policies and so on, matters can be held in balance. However, it is, without doubt, in tension. Victims may be accused on some other occasion. I think that it is important to realise that the proper process of a fair trial — the presumption of innocence and so on — is a protection for all of us, as well as protection even for the victims. Sometimes it is very hard for a victim or a witness to see that as being important in their case, in which they are obviously very personally involved.
1171. **Mr A Maginness:** Thank you very much.
1172. **The Chairperson:** Surely the needs of the overall community and the needs of the victim are not exclusive. Although some of what you are saying now tells me that there is maybe going to be a change, it seems to me that, in the past, it has been exclusively about the needs of the community, and the victim has always been second to that. You could say the same for the police; it is their need to protect the community in general. However, to me, there is a difference between how the police address this and how the PPS is looking at it. The two surely do not exclude each other. It is marrying the two together that needs to happen.
1173. **Mr Burnside:** Yes, absolutely. As I said, I think that the two can be in balance. We have to ensure that we do not sway too much one way or the other. Part of a prosecutor's job in assessing a case is to test the strength of the evidence. That may be testing the strength of your witness, and, usually, the victim is a witness as well. That, undoubtedly, leads to a difficult balance for us as prosecutors.
1174. **The Chairperson:** To finish this session, could you tell me how you envisage the co-ordination between the police and the PPS on the victims and witnesses care unit? The unit is a one-stop shop facility on which you are co-ordinating with the PSNI and other agencies. How will you ensure a consistency of approach in that unit?
1175. **Mr Burnside:** As I indicated, one of the benefits of the Northern Ireland situation is that we have the Causeway system, and we in the police and the PPS already have access to all the various information systems where the relevant information is held. So, someone who is a witness care officer will have immediate electronic access to what is happening in the case, the stage it is at, the last court date and the last result. Andrea said it best: as long as you empower that witness care officer to challenge a police officer, a prosecutor or a member of the Courts and Tribunal Service about obtaining information, you will be able to provide a proper service to the witness or the victim.
1176. One of the most significant changes will be the plan for a proper witness-needs analysis for every victim who comes into the process. That will ensure that the information is supplied as and when they want it to be by the method that they want, and it will allow them an individual point of contact that they know will help them if something goes wrong.
1177. **The Chairperson:** What type of empowerment will that officer need to compel the PPS, the police and the courts to make sure that they get that information?
1178. **Mr Burnside:** Buy-in from the senior management of those organisations will be required to ensure that the



- victim-first approach is adopted. That means that, if you are asked a question that will supply information to a victim, you answer it and do so before you do something else that you are currently working on.
1179. **The Chairperson:** I thank you all very much for coming along today; it is much appreciated. The session was a bit longer than we thought it would be.
1180. **Mr Burnside:** Thank you. I am disappointed that we did not hear the end of Basil's story.
1181. **The Chairperson:** We will get it another time, Mr McCrea.
1182. **Mr B McCrea:** I can just —
1183. **The Chairperson:** No, thank you. *[Laughter.]* We will move on. Thank you very much, folks.
1184. The next briefing is from the Department of Justice. I welcome Maura Campbell, the deputy director of criminal justice development, Declan McGeown, the deputy director of the community safety unit, Peter Luney, the head of court operations in the Northern Ireland Courts and Tribunals Service, and Marcella McKnight, the chief executive of the Compensation Agency. I thank you all for coming along to today's session. Like all the other evidence sessions, this one will be covered by Hansard. I invite you to give a briefing, after which we will have questions from members.
1185. **Ms Maura Campbell (Department of Justice):** Thank you very much, Chairman. Given the hour and that this is our second appearance in the inquiry, I will try to be brief in my opening remarks.
1186. We appeared at the evidence session that you held at the start of the inquiry on 10 November 2011. At that point, I set out the work that the Department had been doing to develop a new victim and witness strategy, outlining the main themes that we were developing and the outcomes that we were seeking to achieve. I do not propose to go over all those again, but I would like to talk briefly about the couple of points that we covered in the further paper that was submitted for today's meeting.
1187. The first point is about the scope of our new strategy. We have been observing the Committee proceedings since last November and have noted that the inquiry has been looking at a broader range of themes than we had been considering for our strategy and has, therefore, gone beyond the themes that I outlined at the session in November. So, it is helpful that you invited our colleagues Marcella and Peter from the Compensation Agency and the Northern Ireland Courts and Tribunals Service colleagues to attend. Peter is the Courts and Tribunals Service's victims' champion. They will be happy to take questions on any issues that fall within those areas of responsibility. We also thought that it might be helpful to have Declan McGeown here from the community safety unit, since some of the issues that you have been discussing and hearing about are very relevant to the work that the Department is taking forward through the new community safety strategy. That includes work on sexual and domestic violence, hate crime and the safety of older people. Declan is happy to field any questions on those specific areas of work. Obviously, when we receive your report, the Department will have to look at the best way of delivering any actions that follow from it. We will need to provide advice to the Minister on the extent to which the delivery mechanism should be the new victims and witnesses strategy or whether that should be supplemented by other means. For instance, some of that work will more properly fall to the community safety strategy.
1188. We also have a separate programme of work on speeding up justice. We are open to either delaying forming a strand of a new victims and witnesses strategy, or it may need to remain a separate strand of work, because it is quite a substantial piece of work that we have under way. Also, the issues on compensation could be a part of

- our new strategy, or, given that we are minded to have a review of the way in which the Compensation Agency delivers its objectives, that may be the way in which some issues are picked up, or it could be a combination of both. Until we see the report, I think that we will keep an open mind, but I just thought that I should flag up the issue now.
1189. The second point that we raised in the paper is to do with the types of actions that we have been considering. At the previous evidence session, I was keen not to pre-empt the outcome of the CJINI thematic inspection report on the current treatment of victims and witnesses of crime. However, since that has now been published, we have attached a list at annex C that encompasses the cross-cutting recommendations that we accepted from that report, as well as other ideas that have come forward through the work of the Victim Witness Steering Group. It is quite a lengthy list, so I do not propose to go through it in detail. However, we are open to considering other ideas that might arise during your inquiry or to giving you some further detail on any of those ideas. We are also keen to get from the Committee a sense of what it thinks the priorities for action should be over the next five years.
1190. One of the key messages that has been coming through to us in the inquiry is that, as well as looking at new initiatives, we need to ensure that what we have in place already operates as well as it should. We have been struck by the fact that some of the suggestions that have been coming forward have been quite simple things, such as doing people the courtesy of saying, “Thank you” at the end of the process.
1191. Given the time, I do not propose to go into further detail on the paper. However, I will say in closing that the inquiry is demonstrating that there is no shortage of work to be done. It confirms the need for a new strategy, and we look forward to working with you to ensure that we identify what the priority action should be and that we create a shared focus across the justice system to deliver on it.
1192. We are happy to take questions.
1193. **The Chairperson:** Thank you very much. That was useful, because I know that the inquiry is going beyond what was envisaged in the strategy. It is good to hear that the Department plans to adjust to accommodate where we go. I am happy for members to ask questions and to hear from the Courts and Tribunals Service and the Compensation Agency. Declan, if there are areas to which you want to contribute, feel free.
1194. Some of the feedback that we have been getting on the Compensation Agency is that some people have been seeking compensation for criminal injuries through the compensation scheme of 2009 but are unable to recover the costs of their legal advice and the representation that was provided to assist them in bringing their claim for compensation. Do you know how that will be addressed? Will those costs, which are currently unmet, be met?
1195. **Ms Marcella McKnight (Compensation Agency):** The current tariff scheme does not pay for legal costs, and we make that very clear from the outset in all our communications with victims. Instead, we steer them towards Victim Support Northern Ireland (VSNI). That may be picked up in the review that the Department is minded to carry out. However, terms of reference for the review have not yet been set.
1196. I very much welcome the Committee's input into that, and I think that the Department is taking a lead on it. It is meeting with the Minister very shortly, and I think that it is also minded to consult with the Committee on the terms of reference. At the minute, I am bound by the existing schemes, which do not provide for payment of legal expenses.
1197. **The Chairperson:** When do you think that will be reviewed?
1198. **Ms McKnight:** We just recently talked about that review, so its terms of reference and timescale still have to be worked through.



1199. **The Chairperson:** Will the Department work on the terms of reference?
1200. **Ms McKnight:** Yes, that is right.
1201. **The Chairperson:** How quickly are you turning around compensation claims for people who are deemed eligible?
1202. **Ms McKnight:** We try to turn claims around as quickly as we can while investigating the claim as thoroughly as we can, because we have a duty to make sure that public money is spent correctly. On average, it takes around a year from the time that we get an application through the door to when we make a first decision. That is because, when we get an application from a claimant, our first port of call is to try to substantiate the information that they have given us. So, we go to the police to ensure that the person is eligible to claim and that the criteria that the scheme sets out on reporting to the police and co-operating with them have all been met. When we get that back from the PSNI, we can usually begin to look at eligibility, and, if the person is eligible under the scheme, we look to pick up with the medics and start to look at the medical evidence to try to assign a tariff. Quite frequently, we find that people are still receiving some medical treatment. You will know that our tariff levels are very much weighted towards the severity and the prognosis of the injury, so we may need to wait or to gather more medical information before we can sign off a claim against a particular tariff level.
1203. **The Chairperson:** I did not quite catch how long it takes on average.
1204. **Ms McKnight:** On average, it is about a year from the time that the person sends in the claim to when we make a first decision. In the event that the claimant does not agree with our decision, they can ask for it to be reviewed, which happens in an internal process in the agency. If they are still unhappy with the outcome, they can take it to the independent body, which is the appeals panel.
1205. **The Chairperson:** What do you think the timescale for that should be? Is a year acceptable, or could it be improved?
1206. **Ms McKnight:** We are very much trying to improve the timescales. In fact, over the past year, we have been working hard with Andrea McMullan and colleagues in PSNI to try to speed up the process of the PSNI giving us the documentation that we require so that we can look at the eligibility issues. At the minute, we request the information, and the PSNI provides us with hard copies of the police reports, the witness statements and everything that it has gathered. Instead, we are trying to use the Causeway infrastructure so that that information is sent to us electronically and can be fed automatically into our system. That will cut down on a huge amount of the administration involved in photocopying and processing papers. Once we get that up and running, which we are hoping to do so in the next financial year, we will look to the medical information. We have already started to discuss with health trusts whether we can receive their information electronically. When we ask for GP notes and records, it puts a huge administrative burden on GP surgeries, so, if we can work with them to get that information electronically, that will save us a lot of time and a lot of admin effort both in the agency and the organisations that we are requesting the information from.
1207. **The Chairperson:** Some members have indicated already that they wish to ask questions, but I want to pick up on a couple of the other aspects before we deal with the Compensation Agency. There have been discussions about how the Department can get a victim-centred approach to the different agencies that operate and about making sure that there will be a consistent approach. Does the Department see itself having a role in holding those organisations to account for meeting the expectations? If a victims' charter were put in place, would the Department see its role as being to hold agencies to account for how they meet that?

1208. **Ms M Campbell:** I would not say that it is holding to account, but I think that we have a role in bringing the agencies together to ensure that there is an agreed agenda for the programme of work that we need to take forward. We also need to make sure that we have the information necessary to ensure that what we are doing is working. We have to keep the code of practice that we published last year up to date, and we have to try to monitor performance against that and draw to agencies' attention any issues that come through in that monitoring and evaluation. As Una said, we aim to put that on a statutory footing to give it more weight.
1209. To be honest, I do not get the sense that there is a lack of commitment across the agencies. Our role is more about co-ordination and facilitation than accountability in the strictest sense.
1210. **The Chairperson:** The Committee has been to the court in Londonderry, and today we were in the courthouse in Lisburn. We have seen that there is a pretty stark contrast between the quality of the two buildings. The theme that is consistently coming up is that the facilities that are available to victims and witnesses are poor. On a number of occasions, they have met the defendant in the same room or they have had to walk past them. That is very uncomfortable for the victims. How does the Court Service see its role in trying to change that to facilitate victims' and witnesses' needs?
1211. **Mr Peter Luney (Northern Ireland Courts and Tribunals Service):** We have taken a number of steps to try to address that, but we recognise that there are a lot of constraints on what we can do within the courts estate as a whole. Some of that estate is of a considerable age, and some of it is small and offers very little accommodation. You saw in Lisburn today that we have dedicated rooms for victims and witnesses, and those are helpfully staffed through our partnership with Victim Support and the NSPCC. Although that facility is not uncommon, in a lot of cases, you have to come in through the public foyer to get to those areas. So, there is always the risk of running into defendants. Where possible, where the building allows it and where the witness wants to, we can certainly try to accommodate their coming in another way. However, we are limited in where we can do that.
1212. Other initiatives could address some of those concerns. When you visited Londonderry, you saw the remote television link facility that can be used in the gathering of evidence. That has been a successful initiative, as it allows the witness to give evidence from a completely remote location. We have a similar facility in Belfast, although it is not entirely remote, as witnesses who are giving evidence by live link are in the old town hall building. That is still a court building, but it is well away from where the trial is taking place. I think that the evaluation report helpfully acknowledges that there are pros and cons to that service, but I also think that the Department will certainly want to look at whether the benefits of that can be built on.
1213. Where possible, we continue to strive to try to improve the facilities that we have available for victims and witnesses. Again using Lisburn as an example, given that we were in the courthouse today, we put an extension on to the building to provide extra consultation rooms. That is where the victims and witness room came from. However, it is not possible to do that at all locations. We are working within the constraints, including financial, that we have. As you know, the capital budgets for a lot of public sector departments have been dramatically cut, and we are no exception. We just do not have the capital available for that kind of development.
1214. **The Chairperson:** What sort of capital investment would you need to bring the estate up to the standard where you would feel that those needs were being met?
1215. **Mr Luney:** It would depend. If we considered improving the existing

- buildings, a considerable amount of capital could probably be spent in trying to develop what we have. However, we would again be working within physical constraints and trying to shift interior walls to create an extra room. We also know that some of the court buildings, such as those in Derry, are working at a pretty high utilisation rate. The capacity in those buildings means that taking on more work is difficult, but, given their layout, you would almost certainly be looking at the possibility of a newbuild, as trying to renovate what is there could be difficult. You could probably spend a significant amount. We have an aspirational estates strategy, but we are realistic enough to know that, at the moment, that is not feasible.
1216. **The Chairperson:** OK. We may come back to you to get a more definitive figure for what you are after to enable you to meet your estates strategy. That would be useful for the Committee.
1217. **Mr Dickson:** I will be brief. I thank Maura for acknowledging that this debate has widened the victims and witnesses issue. Will you tease out the view that we probably need to move from having this just as a new strategy to putting it into some form of statutory code that sets out key entitlements for victims and witnesses? That may be a way of cross-referencing this across the range of the justice system, be that from a victim's right of access to a court separate to others, if required, to how they interact with the Public Prosecution Service and all the other things that we have dealt with. Perhaps the best way forward, which I am not suggesting as a solution, may be to point towards some form of statutory code that would give the Department and other agencies the appropriate mechanism to make these things happen.
1218. **Ms M Campbell:** As I mentioned, we created a code of practice last year. It was published in March, and the intention is to place it on a statutory footing in the next Justice Bill. We do not propose to put all the detailed provisions of the code in statute, because to do so would create a ceiling rather than a floor.
1219. **Mr Dickson:** I think that it is the floor that you want to establish.
1220. **Ms M Campbell:** You want to establish a floor — a baseline — and build on that. For instance, a month after we published the code, the police launched their policing commitments. Therefore, we were out of date within a month. So, that code will have to be continually refreshed and updated, but putting it on a statutory footing will give it more force. We also need to take account of the European Union directive, which Una mentioned, that will establish minimum standards on the rights of, support for and protection of victims of crime. Once we have the final version of that directive, the expectation is that member states will enshrine it in domestic legislation.
1221. **Mr A Maginness:** Thank you for all your contributions. At our meeting in Derry, I expressed my dissatisfaction with the present compensation scheme for victims of crime. I reiterate that: I think that the very basis of the scheme is wrong, because it is so restrictive and very unfair to victims. For example, their special losses, such as a loss in wages, are not fully compensable.
1222. I will leave that and move to the issue of certain victims who use lawyers to make representations being charged excessive amounts for those solicitors' services. I do not believe that the Law Society is taking sufficient action on that. I wonder whether the Compensation Agency could lay down some sort of guidelines on legal representation. I know that there is no entitlement to legal representation; however, surely the Compensation Agency, together with the Law Society, guidelines should lay down guidelines. If people breach those guidelines, the Law Society could take action against those solicitors. It seems to me that excessive amounts are being levied in a small number of cases and that some action should be taken.

1223. **Ms McKnight:** Yes. As you say, the scheme does not include the agency reimbursing legal expenses. We do so in minor claims cases, so I have some experience of what you are talking about. In such circumstances, we try to use the 1988 scale rates as our guide. I am the trustee of those young people's compensation trusts, and I have some pressure coming from legal people to say that that is not sufficient. I hear what you say; we will take it on board and see what we can do. However, I would look to the Department, because all that I can do is administer the schemes as they currently exist. We know that it is the case that some legal people's fees are very high.
1224. **Ms M Campbell:** Victim Support provides a free service to victims that helps them to navigate their way through the compensation process. We are trying to increase people's awareness of that service. In some cases, they will take the legal route without realising that that service is there, so we want to ensure that they avail themselves of that as fully as possible.
1225. **Mr A Maginness:** I think that that should be made more public, and it is certainly a useful service.
1226. In the next year or so, the County Court jurisdiction will rise to, I think, £30,000. What additional pressure will that put on the facilities in the courts throughout Northern Ireland? If there is a rise in the jurisdiction, there will obviously be a rise in the number of claimants using the County Court. The County Court is accommodated in Crown Court buildings right across Northern Ireland.
1227. **Mr Luney:** We have looked at that, and we will continue to monitor it. Obviously, there will be an impact on workload. We want to monitor the size of the court lists. If they were increasing, we would want to see whether we needed to take action, such as having more sittings to spread out the work. We are aware of the issue, and we need to keep it under review.
1228. **The Chairperson:** No one else has indicated that they wish to ask a question; you are getting off very lightly today. I am sure that we will come back to you if we need to. Thank you very much.
1229. Last, but by no means least, is the Probation Board for Northern Ireland (PBNI). I welcome to the meeting Paul Doran, the deputy director, Roisin Muldoon, the assistant director, and Rita O'Hare, the area manager of the victims' information unit. This session, like all the others, will be recorded by Hansard. Please briefly outline your submission, after which members will have some questions. I will hand over to you, Paul.
1230. **Mr Paul Doran (Probation Board for Northern Ireland):** Thank you, Chair. My presentation will be brief, and Rita and Roisin will then join me in answering any questions.
1231. We believe that the victims' perspective is central to our work with offenders. All our programmes and interventions challenge offenders to understand the impact that their offence has had on the victim. Our statutory victim information scheme, which was established under the Criminal Justice (Northern Ireland) Order 2005, provides information to victims about what it means when someone is sentenced to an order or licence that is supervised by PBNI.
1232. As well as providing that information, we listen to victims' concerns. That informs our work with the offender. To date, approximately 800 victims have joined the scheme. Of the people who have done so, 60% have provided feedback. That has been very positive: 98% were very satisfied or satisfied with the contact. We have also undertaken a number of victim offender pilots throughout Northern Ireland in conjunction with community partners, Northern Ireland Alternatives and Community Restorative Justice Ireland. We are committed to the use of restorative interventions, which range from indirect mediation to victim/offender restorative meetings. In the right circumstances, there is a real benefit to victims of crime being able to make clear to the offender the impact that the crime has had on their lives.



Following the successful completion of those pilots, we have continued victim/offender work and have supported partnerships through our community development grants. We would like to build greater resource capacity to deliver restorative approaches across the whole of Northern Ireland, and we would also like to begin to develop approaches in adult conferencing.

1233. Last week, I mentioned to members our community service strategy. We revised that in 2010 and introduced an opportunity for the victims of crime to influence the work of community service. Following a procurement exercise, we also carried out staff training and appointed alternatives to help to raise awareness in victim/offender work through the provision of training for relevant staff.
1234. The unit of ours that works with victims also prepares reports for parole commissioners in life sentence cases. That enables the victim's family to have their say about any concerns that they may have regarding the prisoner's release under our supervision. Although we have completed only a small number of those assessments to date, feedback has been very positive both from victims' families and, indeed, the parole commissioners. We are seeking further resources to extend the scheme.
1235. I will deal now with our issues and concerns. The most common concern that we hear from victims who are registered with our scheme is the lack of timely information about their particular case. The evidence that I have heard today certainly bears that out. We also hear about the lack of ongoing contact throughout the duration of the case and about confusion as to the information that the victims are entitled to receive at each stage of the process. We believe that a singular interface for victims is the most effective means of providing accurate and timely information about the system. We note the recommendations from the Criminal Justice Inspection's report about amalgamating the Prison Service scheme, the Probation Board

scheme and the DOJ scheme. We warmly welcome that, and we have already commenced work on it. I also noted Stephen's comments and confirm that we hope to work with the Public Prosecution Service so that some form of one-stop shop is available to victims.

1236. We recognise the views that have been expressed today about the difficulties of the court process. Our view is that victims should have the opportunity to have their voices heard at key stages of the criminal justice process: at prosecution; sentencing; on an offender's release from custody; and when release from custody is being considered for an offender, subject to licence. Some practical ways to achieve that may include the provision of victim impact statements or victim reports at the prosecution or sentencing stage; opportunities to contribute to the agreement of licence conditions that are set prior to release from custody; or contributing to multi-agency public protection arrangements. At present, the arrangements are on an opt-in basis, whereby a victim must opt in to receive information about a sentence. We believe that the service to victims would be improved if that happened on an opt-out basis, so the expectation would be that victims would receive the information unless they indicated otherwise. At present, victim information for the Probation Board is received via the PSNI; under legislation, we are unable to get direct contact. That adds unnecessary delay and burdens staff with ensuring that victims have access to information. The system is slightly unwieldy, and it means that we are unable to ensure timely and accurate notification to victims.
1237. PBNI recognises that each victim will have individual needs. Therefore, information schemes should have more discretion about the type and level of information that is provided to victims. For example, we are not currently able to disclose the actual date of release from custody to a victim, nor the area where an offender lives.



1238. In conclusion, at the core of all the work that we undertake is the idea that probation is about reducing the risk of people becoming victims of crime. Everything that we do is about preventing people from becoming victims of crime and re-victimisation. We believe that, by providing victims of crime with information about the requirements of an offender's court sentence, as well as giving them the opportunity to inform decision-makers at key points in the system, we can reduce the impact of crime on individual victims and decrease the likelihood of further offending by explaining to offenders the impact of their behaviour on others.
1239. **The Chairperson:** Thank you very much, Paul. Some of the feedback that we got from victims' groups shows that victims are concerned not only about themselves but about whether the individual who may have assaulted them, for example, has been rehabilitated and is, therefore, less likely to do that to anybody else. Have you thought about providing information to victims not only to advise them and give them input into an offender's sentence and where they will be housed but to let them know the actual outcome of work that an offender has done while on probation and to indicate that that individual has demonstrated reform of their character and that they are less likely to re-offend?
1240. **Mr Doran:** I think that we would be keen to do that, but there is no legislative mechanism for that at the moment.
1241. **Ms Rita O'Hare (Probation Board for Northern Ireland):** Occasionally, there are opportunities under the restorative justice method to explain or share that information. That can be done, particularly if an offender is keen that the information be shared. If a victim requests it, we can begin some kind of restorative work with the offender. So, there are opportunities.
1242. There is no provision in the legislation for victims to have a right to that information. One of the positives for us is that we have a legislative scheme, but, equally and as someone indicated earlier, legislation is not always the answer. Legislation can be used only for a few years before the gaps are identified, and, as you know, it takes a considerable time to change and amend legislation.
1243. **The Chairperson:** Thank you for that. I am interested in the thought process behind the scheme being on the basis of opting out rather than opting in. Will you elaborate a little more on that? Victims have opted in to the scheme, and, when offenders' sentences were coming to an end and they were due to come home, those victims were able to make impact assessments about where those offenders should be housed when they were released. How beneficial do you feel it has been for victims' to be able to feed into your organisation to say why they think Joe Bloggs should not be brought back home? As to those who opt out of the scheme, do you find that, after an offender has been sentenced, some victims have moved on and do not want to be contacted ever again and reminded of what happened or to know what happens? What sort of information tells you that victims want to continue to know when offenders will be released on parole or when they will complete their sentences and come out of prison? Will you touch on those points?
1244. **Mr Doran:** I will start off, and I will then ask Roisin and Rita to come in. I know that Rita has some figures, and Roisin can talk to you about the prison scheme.
1245. One of the added benefits of our scheme is that every victim who opts in is offered a face-to-face appointment with a probation officer who is a qualified social worker. That is a bit of added value that we bring, and the feedback that we have received from victims shows that they appreciate it. It is a very difficult process. We act as a broker to ensure that victims are aware of the services that are available from organisations such as Victim Support, Women's Aid or whoever else. Equally, we work closely with the Northern Ireland Prison Service on those offenders who come out of custody. I

- will ask Roisin to deal with the issue of accommodation, which you asked about.
1246. **Ms Roisin Muldoon (Probation Board for Northern Ireland):** We have a number of approved hostels across Northern Ireland to which we can refer clients at the point of discharge from custody. Their being in that accommodation allows for greater monitoring, surveillance and so forth. It also gives us an opportunity to test with our colleagues in those hostels individuals during the initial period of their liberty and, indeed, during periods of temporary release prior to their actual discharge.
1247. **Mr Doran:** Rita has some figures on those victims who either opt in or opt out of our scheme.
1248. **Ms O'Hare:** Victims have to register with us before they can be provided with any information, and we have to mediate our services through the PSNI. The PSNI sends a copy of our leaflet to every victim in cases where we are involved in the supervision of a sentence. The figures show that there is a 9% take-up on those leaflets, but we knew that before the scheme came into operation. Generally, research shows that there is only a 7% take-up of any scheme that is advertised by leaflet. We are keen for the Committee to look at that so that some way can be found of making sure that the scheme is done on an opt-out rather than on an opt-in basis. From where we sit, we are legislatively bound, and we cannot get out of it.
1249. Those figures are very concerning, because not a high enough percentage of victims is registering. We do our best to ask other agencies in the voluntary sector, which are involved much earlier in the process, to highlight our services and to make victims aware of what can happen post-court. We need to keep going back to our partners in the sectors to tell them that. We would also like to do that with the witness care units. However, they will generally be used only in contest cases, so a whole number of other cases need to be considered. It is very important, and victims can contribute. There was a recent case — I
- do not want to give a whole lot of detail about it — where there may have been a risk that the offender would visit the victim on release. The victim's concerns were looked at, and the victim provided other information. When that was fed back to the supervising probation officer and re-looked at, the offender's risk level was reviewed and raised. That is a very practical example. So, such a provision protects the victim, protects the community, and, hopefully, does something about the offender's behaviour.
1250. It is very concerning that we have a low level of victim registration. We really want to get that figure up, because the feedback shows that when you do that and do it properly, victims gain from it.
1251. **The Chairperson:** Of those victims who are opting in, what is their profile?
1252. **Mr Doran:** Do you mean the offences profile?
1253. **The Chairperson:** Yes.
1254. **Ms O'Hare:** A very high percentage — 79% — involve serious sexual and violent offences. That includes sexual abuse of any kind, manslaughter, death by dangerous driving, murder and robbery.
1255. **The Chairperson:** So, if you are talking about opting out, would you have to opt out on those serious crimes or opt in on everything?
1256. **Mr Doran:** Unless they decide themselves, our view is that all victims should be given the opportunity to opt out. It is about giving some more power back to the victim. Very often, in those situations, victims feel very powerless, and obviously some of the evidence you have heard reflects that. Sometimes victims do not want to take a positive step, because there may be all sorts of reactions to the offence. From training with our staff and from feedback from victims and victims' organisations, we know that people are not always in a position to consider all the facts in a rational way if it is still very close to the court process. If it is an opt out,

- in which a victim has to say they do not want to receive the information, we would respect that decision. However, at the moment, the opt in take-up rates of 9% are low.
1257. **Mr A Maginness:** On that point, what is the position in Britain? Is there an opt-in or opt-out provision?
1258. **Ms O'Hare:** It is a different system altogether, Mr Maginness. The legislation is different. The victim support and victim liaison from the Probation Service begins at the pre-sentence report stage. It is very different. Looking at it, I think that the system there is set up for much better access to victims than we are. However, it is a very different legislative framework and system.
1259. **Mr A Maginness:** It comes at a later stage, but there is more take-up and more access to victims.
1260. **Ms O'Hare:** There is certainly more access.
1261. **Mr A Maginness:** Thank you, Chair; I am sorry for interrupting.
1262. **Mr B McCrea:** Just for clarity, does that happen at an earlier or a later stage?
1263. **Ms O'Hare:** At an earlier stage.
1264. **Mr S Anderson:** Just to go back to the parole situation and to victims who opt in or opt out, for those victims who wish to engage, you say that you do the reports for the parole situations. How much weight or input do victims have? How much would you be swayed by that input in deciding whether to release a prisoner on parole? Would that input weigh heavily in the decision that is made?
1265. **Mr Doran:** That is a good question, Mr Anderson. To date, we have completed only 17 reports on life sentence cases for the parole commissioners, because that opportunity arose only in the past couple of years. We can report on a tightly defined set of circumstances. Given that the reports are mostly on murder cases, the attitudes and concerns of the deceased's family are considered. We have had a lot of discussion with the parole commissioners, because they have access to all the cases and all the papers, notes and records from the original trial, including any victim impact statement that might have been provided at that time. The parole commissioners were obviously very concerned that, given that the prisoner — they are all prisoners — has the right to be legally represented, their representative could suggest that this was a double jeopardy: they are being sentenced again for the original offence when the tariff was set. From the victims who have agreed to provide those attitudes and concerns, we have found a very high satisfaction rate within the context that, clearly, they have lost a family member and are very unhappy generally, and understandably, about the process. Equally, the parole commissioners expressed some concerns at the outset about what the reports would look like, but now they have said that they find them very useful. It is hard to say how much sway there is. However, we strongly made the case that we feel that they should consider the attitudes and concerns of victims before any decision is made about a release.
1266. **Mr S Anderson:** When a decision has been made and you have submitted your report, do you get any feedback from the parole commissioners as to how that report was viewed? Do you get any feedback or do you just submit your report, it sits there and they make their decision? Do you get any feedback to indicate how your reports are viewed and whether they are taken seriously?
1267. **Mr Doran:** Yes, we do.
1268. **Ms Muldoon:** The reports are prepared at the three-year pre-tariff stage in respect of life sentence prisoners and are considered along with all the other documentation in the dossier. The parole commissioners give us feedback on all the reports. They will also have an opportunity to comment on particular issues that the individual needs to address prior to being considered for release subject to licence. That gives us an opportunity to take on board that

- feedback and to undertake specific pieces of work.
1269. **Mr Doran:** They provide a written report of their decision, which is very useful in helping to guide ourselves, the Prison Service, the police and so on.
1270. **Mr S Anderson:** Do you have to do a report each time a prisoner released on parole breaches parole conditions? Would you speak to the victims or families concerned to get their views on the breach? Would the circumstances change?
1271. **Mr Doran:** Under the Criminal Justice (Northern Ireland) Order 2008, for public protection sentences, there is scope for the Probation Board to provide a report on the attitudes and concerns of victims. We want to work with the Department on the resourcing of that. It is important to note that not all people released from prison are subject to post-custody supervision or to a licence under the 2008 Order. There are still a lot of prisoners subject to a custody probation order. The one thing they all have in common is that they can register with the prison victim information scheme or our scheme, and we will try to provide the information to the victims. The parole commissioners do not consider the release of every prisoner; they consider only the relatively small number of cases involving public protection sentences.
1272. **Mr S Anderson:** OK. Thank you very much.
1273. **The Chairperson:** On the issue of probation officers signing off on residency, particularly for those who have been convicted of sexual offences — there is a supervision element involved when they go back into the community — the victims can be invited to put in an impact statement about their views on the residency. Beyond the victim, can other organisations do that? I suppose that that refers to the attempt to make provision for community impact assessments. Beyond the victim's view, how is other representation considered?
1274. **Mr Doran:** I will start to answer, and my colleagues, I am sure, will come in. Obviously, if a person is convicted of a sexual offence, they will be dealt with under the public protection arrangements for Northern Ireland, which bring in the police and social services. Following the Criminal Justice Inspection report of the Donagh case, which was an important recent case, a view was taken that the views of the community should have been given more weight. If a victim has opted into our scheme, we will provide information to them. Again, the vast majority of sex offenders living in the community are not under our supervision. The Probation Board welcomes the provision of community impact statements, but we are not the lead organisation in trying to establish them. I do not know whether Roisin or Rita has anything to add.
1275. **Ms Muldoon:** Only to say that a lot of work is going on on those reports at present, and we are certainly contributing to that work. Thus far, the earlier reports that we were referring to — the reports for the parole commissioners — have been prepared in respect of only 17 life sentence prisoners, although we hope to extend the reports to the other public protection sentences and extended and indeterminate custodial sentences.
1276. **Mr Doran:** There is an opportunity in that, from 1 April, as you are aware, the policing and community safety partnerships will be established in all council areas. We would like to think that some victims' organisations could be directly represented on those PCSPs, but, if they are not, we will certainly want to liaise with them and make sure that victims' views are heard at those forums.
1277. **Ms J McCann:** Thank you for your presentation. I do not know whether you can answer a question about the restorative work that you are involved in. It is not about the public restorative work with Community Restorative Justice, etc, it is more about the victims' information scheme in cases of domestic violence. For instance, if you are working with a perpetrator of domestic violence and the victim of that



violence has given you information as well, is some sort of assessment done as to whether that person can go back to the family home? Does that liaison or work continue in any way to ensure that the people in that home are safe? I do not know whether you have that information. Do you do that?

1278. **Mr Doran:** Yes, indeed. The Probation Board provides a programme for the perpetrators of domestic violence who have been adjudicated by the courts, and it is called the integrated domestic abuse programme (IDAP). Although we are not able to directly fund victims' groups to work with victims — that is not part of the Probation Board's remit under the Probation Board (Northern Ireland) Order 1982 — through our community development funding, we fund Women's Aid to work with the partner or former partner of the perpetrator to ensure that the information that we receive is as accurate as possible. There is also a safety element to that work. We provide funding for women's safety workers throughout Northern Ireland through Women's Aid, and we are very pleased to report that the IDAP is now being delivered in five sites throughout Northern Ireland.
1279. **Mr B McCrea:** Tell me a bit more about the single point of contact for victims. What does that mean exactly?
1280. **Mr Doran:** I will start, but Roisin and Rita probably have more direct knowledge. My understanding is that victims constantly say that they are confused by the system. They say that, if they had one point of contact throughout the court process, from pre-court to post-court, it would be more helpful to them. The Probation Board can get involved only when there has been a conviction, so we are restricted to that side of things. That is why the CJI recommendation is only that our scheme, the Prison Service scheme and the DOJ scheme for mentally disordered offenders should be amalgamated, which we fully support. Work on that has commenced, thanks to Rita, Roisin and their colleagues in the Prison Service and the DOJ. However, we think that we could go further in Northern Ireland. As people have noted, we have one Police Service, one Prison Service, one Probation Board, one Courts and Tribunals Service, etc. There should be the opportunity in this jurisdiction to have a one-stop shop — one point of contact. I think the Department is looking at that, and Stephen made reference to it. We are very keen to work with the PPS, which obviously works on cases pre-conviction, to do what we can.
1281. **Ms Muldoon:** Paul is right. The PPS, the courts and the police are working closely together at the moment, and, at the other end of the continuum, post-conviction, we are working closely with our colleagues in the Prison Service and the Department. In the short term, we hope to have that amalgamated victim information scheme up and running, but, in the longer term, we have our sights on the fully amalgamated scheme. Paul has hit the nail on the head.
1282. **Mr B McCrea:** Who is going to run it? Are you looking at establishing a new agency or bringing it into your remit? What are the practical outworkings of this?
1283. **Mr Doran:** We do not have strong views. We are not trying to be territorial; we want whatever is best. We take the views of groups such as Victim Support on what victims find useful. If those groups feel that a non-criminal justice organisation or a voluntary organisation is best placed to provide that, we would have no difficulty with that, and we would want to put the resource that we currently deploy fully behind that. It may not necessarily require extra resources: it is just a question of joining up the dots.
1284. The CJI report recommended that the Probation Board take the lead in the amalgamation of the schemes of the Probation Board, the Prison Service and the DOJ. However, that is primarily due to our numbers, the fact that we are present in the community and the fact that we have probation officers providing face-to-face contact.



1285. **Mr B McCrea:** In response to Mr Maginness, Rita said that the situation in Great Britain is different, in that there is earlier intervention there. Does that mean that, if you were to take forward your suggestion of an integrated solution, we would, in effect, leapfrog to a point even earlier in the process?
1286. **Ms O'Hare:** It could mean that, and we want to have that involvement as early as possible, or at least an arrangement whereby victims could be made aware as early as possible or given the right to choose to be informed as early as possible, rather than automatically assuming that they want the information. It is important that victims are aware that there is a service from the beginning, from when the incident happens, through to the final supervision of the offender. It is true that a victim does not want to know everything on that first day. When you have been the victim of a crime, there is only so much that you can take in.
1287. **Mr B McCrea:** You are quite right. Rita, you did not get the second half of my story, but you are going to be spared it. I get the general thrust.
1288. **Ms O'Hare:** It would be really helpful if victims knew, as early as possible, that there is a service to the end.
1289. **Mr B McCrea:** I do not want to extend the conversation too much, because I have a second question. However, the suggestion that there should be a single point of contact seems to be eminently sensible and something of some merit. What support is there from other agencies? Who is discussing it, other than the Committee?
1290. **Mr Doran:** The Department convened a meeting just before Christmas at which there was the opportunity to explore the possibility of European funding. The permanent secretary Nick Perry was there, along with a representative from the Office of the First Minister and deputy First Minister (OFMDFM). The official is to arrange a meeting with ourselves and the PPS to take that forward and, hopefully, get some European funding.
1291. **Mr B McCrea:** Chair, I think that we would like to know more about that. You can take it that we have noted that point. It is really quite interesting.
1292. I will move on to my second point. You can certainly make a good argument that you get successful results. However, I am not sure whether the public fully understands what the Probation Board does or that it is successful. We come back to the whole question of how we reassure people that this is not a soft option. Without identifying anybody, I will say that, when we visited the courthouse today, I was struck by the emphasis made in an argument about a person having met all the stringent conditions and how that had an impact on subsequent developments. I am not sure that that is fully understood. People feel that prisoners are just let out to run riot and that, if they do something wrong, eventually they will be caught and sent back to prison. Sorry, but that is the general perception. What are you going to do about that? We have to communicate to people that this is not a soft option. It is certainly not being soft on the victim, in that this is a better way of doing it and one that perhaps has better long-term outcomes. What is the external communication strategy?
1293. **Mr Doran:** Thank you for the question. I know that you have previously suggested to the Chair that a presentation to the Committee on effectiveness would be a good start, and I think that the Chair agreed. I have already talked to colleagues about taking that forward, and we will write to the Chair on that. However, I reassure the Committee that we have looked at our standards of practice in dealing with offenders. We introduced our new best practice framework in October and agreed it with the courts. Throughout that document, like a stick of rock, is concern for the needs of the victim. That is something that we have learned from our previous approach. We are now very clear that, particularly in an area like Northern Ireland where community and justice are

so important, the needs of the victims have to be central.

1294. Another small example is that we were recently contacted by the Consumer Council about doing some work with ex-prisoners and ex-offenders in the community to ensure that they are aware of how best to avoid debt and manage a bank account. One of the things that we did through Rita's unit was to ensure that victims who are registered with us also had access to a consumer panel, because they highlighted very clearly the financial impact that they had suffered as a result of being a victim of crime. That work will go forward now, so we acted as a conduit for the Consumer Council, very much keeping in mind the needs of the victim and not just the offender.

1295. **Mr B McCrea:** I will make one last statement on the issue. What I find challenging in this inquiry and debate is that all the things that agencies like yours suggest — how to mitigate repeat offending or whatever — are eminently sensible on their own, but there is a danger that the community and the victims will say, "You are doing all this work with the perpetrators of crime for the laudable reason of trying to stop them re-offending or whatever, yet the victims of crime get none of that support. No one comes along and tells them how not to get into debt or how to do such and such." We need a balanced response whereby the victims get at least as much attention as the perpetrators. I know that that is a challenge and that there are resource constraints, but that is fundamental to the issue. The biggest challenge in our society is that people think the balance is tilted towards the perpetrators of crime and not the victims.

1296. **Mr Doran:** I accept that.

1297. **The Chairperson:** OK, members, no one else has indicated that they want to speak. Paul, I thank you and your team for coming along. It is much appreciated. That concludes today's evidence session.



## 16 February 2012

### Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)  
 Mr Raymond McCartney (Deputy Chairperson)  
 Mr Sydney Anderson  
 Mr Stewart Dickson  
 Mr Seán Lynch  
 Mr Alban Maginness  
 Ms Jennifer McCann  
 Mr Basil McCrea  
 Mr Jim Wells

### Witnesses:

Ms Susan Reid                      *Skills for Justice*  
 Mrs Amanda Ryalls  
 Mr Joe Stewart  
 Mrs Judith Thompson

1298. **The Chairperson:** The next item is the inquiry into the criminal justice services that are available to victims and witnesses of crime. At the meeting on 26 January, the Committee considered correspondence from Skills for Justice, and noted that the organisation had carried out work for the Department of Justice on the training needs for those staff on the criminal justice organisations who come into contact with victims and witnesses of crime. We agreed to invite representatives to give evidence as a part of the inquiry into criminal justice services available to victims and witnesses of crime. We will get a short DVD as a part of this briefing. I am not sure at what stage that is coming.
1299. I welcome Joe Stewart, Chairman of the Northern Ireland Country Group, Judith Thompson, its manager, Amanda Ryalls, its operations director and Susan Reid, a member of the Northern Ireland Country Group, Skills for Justice. This will be recorded by Hansard.
1300. **Mr Joe Stewart (Skills for Justice):** Thank you, Chair. This is where justice is really joined up. The broad family, as represented by Skills for Justice, ranges through the whole gamut of the justice system and extends into the Fire and Rescue Service. That is what we hope to illustrate this afternoon. I have chaired this committee with some pride for a considerable period of time. It is one of the better aspects of the job that I do daily.
1301. I am accompanied today by Judith Thompson who is the manager of the Northern Ireland Country Group, Amanda Ryalls, the UK director of Skills for Justice and Susan Reid, who is the chief executive of Victim Support for Northern Ireland. Without any more ado, I hand over to Judith.
1302. **Mrs Judith Thompson (Skills for Justice):** Thank you all for inviting us here today. We will start with the video that you mentioned. To start the presentation, I hand over to my colleague Amanda Ryalls.
1303. **Mrs Amanda Ryalls (Skills for Justice):** This is a video that you will have seen before, and it is a part of a series of road safety videos. We ask that you watch it with a close eye on the staff within the justice organisations. So, try to watch it in a different way to the way that you have seen it before. It is very short.
1304. **Mrs Ryalls:** OK. You will have seen that video far more often than I have. When you watched it previously, perhaps the focus was on the impact on the offender, the victims and their families and the witnesses to the scene. However, looking at it today, I hope that you can see how, in particular, the staff in the justice organisations work seamlessly in a highly skilled and co-ordinated way to deliver what is expected of them.
1305. The point that we make when we show the video is that that does not happen just by accident. Skills for Justice works with and for employers to develop national occupational

- standards that define best practice in and across the different roles in parts of the justice sector. We also work with justice organisations to develop staff skills, competence frameworks and qualifications, and we offer other products and services based on those standards to enable people to perform to the best of their ability in high-performing organisations.
1306. In the video, you see the PSNI officers assisting with casualties, securing evidence and beginning the investigation process, including victim liaison. Staff are specially trained in investigation, family liaison and case preparation, and the PSNI relies on the Skills for Justice national occupational standards and the policing professional framework to profile those roles and to develop the staff within them.
1307. The victims and witnesses whom you see in the video also require support before, during and after the criminal trial. Fifty-one Victim Support Northern Ireland staff members and volunteers have received serious crime training to enable them to provide that support, using a training programme that has achieved a Skills for Justice quality skills mark. The same principle applies to all organisations. Our key point is that we and you know that the skills and competence of the justice workforce are absolutely vital. They are the deciding factor in whether the criminal justice system succeeds in delivering good and effective services.
1308. I will hand over to Judith Thompson, who sees more of the work that we do daily with the employers and organisations in the justice sector in Northern Ireland. She will say a little bit about the exciting work that we have planned for the next two years to support you, with an emphasis on the work that we are doing to support the workforce who support victims, survivors and witnesses.
1309. **Mrs Thompson:** I would like to pick up where Amanda left off and focus on two things. First, the success of legislation and policy and their impact in this sector depend more than anything else on the skills of the individuals involved. Individually, in a small way, you saw a number of different organisations in the video; Amanda referred to witness and victim support issues and the PSNI. However, in the background, you also saw forensic scientists, the Fire and Rescue Service, the courts and the prosecution process. All those have to work in a joined-up way, and they often have to work in the same place. Sometimes, they are in a same place doing the same thing, and, at other times, they are in the same place doing different things. However, that joined-up working is absolutely at the heart of delivering justice and of achieving the results that you and all of us seek to achieve through legislation and policy.
1310. Our role, because we work across the justice sector and with all the organisations in it, is about bringing organisations together to develop skills, particularly where they are going to have to use those skills together. The added benefit is about communication and mutual understanding, but it is also about creating relationships and working practices that deliver on the ground. The strengthening of that interconnectedness is a key feature of achieving skills and achieving impact in justice.
1311. The Committee will be very aware of the development of the new college at Desertcreat, which will be a state-of-the-art training facility that will radically increase the impact of learning in the justice sector. That will bring about that radical difference, and, wherever possible and useful, it will create impact through a collaborative learning curriculum. As the sector skills council for justice, Skills for Justice has been commissioned by the Desertcreat project board to help it with that joined-up curriculum and to take the standards that are already used by organisations across the sector to help them define best practice and what their learning programmes must give them and to look at where those standards apply across organisations and how they can be used to bring learning together. It will achieve



- efficiency, but it is also about increased impact and having a justice sector that delivers that input by joining up and by exercising the right skills for the right people at the right time.
1312. You may wish to note that Skills for Justice has also developed national occupational standards for victims and witnesses of crime. There are specialist standards relating to witness care, specialist standards relating to domestic and sexual violence, and new national occupational standards, which we have recently been asked to produce, on the specialist role of independent sexual violence advisers.
1313. Those national occupational standards describe competent performance, identify the knowledge and skills that workers need to achieve that performance and allow a clear assessment of that competence across a range of workplace situations. The development of those standards is always based on collaborative working between ourselves and the whole vocational sector. We produce the standards from steering groups and working groups, which are made up of experts and key practitioners. They work with us. We know the format in which things need to be produced, and they have the expertise to populate that. The national occupational standards are used to define roles and the knowledge and skills that are required to perform those roles. In that way, consistency can be achieved in service delivery.
1314. I noted some of the conversations in the Committee this afternoon about community confidence and trust. That issue is obviously there as well for people who make the decision to come forward as victims and witnesses of crime and to engage in a justice process. Our point is that although confidence and trust are, obviously, critical, competence is a big part of what creates confidence and trust.
1315. I want to talk briefly about the economic and social impact of crime. It is important to highlight that crime has an economic and social impact, particularly on small businesses. The Department of Justice has estimated that the economic cost of crime to businesses here is about £624 million per annum, with £143.6 million lost in economic output. We are working closely with the PSNI, the Department of Justice and local councils to do some research on the levels of reported and unreported crime against small businesses. We want to capture the human cost. However, we also want to capture some of the economic impact and see what that impact has on urban and rural communities when small businesses, where the margins are thin, start to fold. Big businesses can manage loss from crime. They predict it; in many cases, they can manufacture security products to help them to deal with it; they can factor it into their bottom line; and they manage it. Small businesses cannot do that. In a recession, the impact on them is doubled.
1316. We have been led by research carried out by the University of Central Lancashire, and we believe that raising skills in risk assessment and crime prevention can make a significant difference. The university work showed reductions in the loss to businesses through crime by up to 80% a year in some cases as a result of skilled intervention, good advice and action planning to minimise risk. Detection and prosecution rarely gives back to a business what it has lost. It is prevention that can make a big difference to small businesses. Importantly, that project will also form a research base for a larger European project from which we hope to bring a significant amount of European money, perhaps up to €3.5 million, into Northern Ireland. We could be a benchmark project for crime prevention with European links.
1317. We will leave you with some information about other work that we are doing in Northern Ireland, Scotland, Wales and England on the development of a skills framework for those who work with victims and witnesses of crime. We are developing that in full consultation

- with employers and stakeholders, and the aim is to clearly articulate the required competences for employees and volunteers operating across the workforce. It is a holistic approach and is about benchmarking the roles of those who interact with victims and witnesses at a range of levels during the justice process, and I know that the Committee is very aware of the impact on victims and witnesses of all those who work in the justice sector.
1318. We sort of looked at that as a pyramid. At the top, there is a relatively small number of workers who are very skilled and whose main purpose in their work is around work with victims and witnesses. If you look down that pyramid, you will see a very broad range of staff, quite often in administrative and other roles, who have an interaction with victims and witnesses that is an important or a critical part of a victim's or witness's experience. When thinking about skills, it is important to look at the top of the pyramid, but, in many ways, it is just as important or more important to look across the bottom of it and think of all of those people in statutory and voluntary organisations who will be first point of contact and for whom it is not their main job but who are very important to the people who encounter them.
1319. In the longer term, a framework such as that developed in consultation, could support the development of a specialist register for some specialist workers if that were wished, perhaps in areas such as domestic and sexual violence. It may also link to article 24 of the EU directive around minimum standards on the rights, support and protections of victims of crime.
1320. Finally, our key message is that it does not just happen by accident. The delivery of a skilled, integrated service by those who work for the justice sector only happens as an outcome of a great deal of skills development and collaboration that happens behind the scenes. At the moment, as we all know, we are squarely caught in the storm of a recession, and we are all experiencing belt tightening.
- We know from experience that recession will have an impact on crime and that we can expect rises in some types of crime. That will put pressure across the criminal justice system, including on organisations that deal with victims, survivors and witnesses. We also know that resourcing skills development is particularly challenged during times of financial constraint. In that scenario, there is a real danger that workforce reductions and reduced investment in training will lead to service failure. Paradoxically, when there is additional pressure to perform well and deliver, investment in training is more important but harder to sustain when there is pressure on finance. In our work with the Committee and with the sector, we do everything that we can to make the case for continued funding for skills and for increased flexibility to support a skills agenda that will deliver the outcomes that this Administration needs.
1321. Thank you for taking the time to hear our presentation, and we hope that you will see and understand that skills are a critical part of achieving justice. We are here to answer any questions that you may have and to work with you in any way that we can to help to clarify the skills that are needed and to work to deliver them.
1322. **The Chairperson:** Thank you. What is the take-up of the training that you offer to the criminal justice organisations as to how victims and witnesses services are delivered?
1323. **Mrs Thompson:** I will let some of my colleagues answer for their own organisations. We do not deliver training as such; we produce agreed standards, which should benchmark what a job looks like and what training on skills should be delivered to that person. Mr Stewart will talk about how the policing professional framework is used, and that is one of the best examples. It is used fully in PSNI, which will probably be one of the police forces most versed in its use. My colleague Susan Reid has been doing quite a lot of work with us to use those standards in her organisation.

1324. **Mr Stewart:** In terms of professionalism and expectation of the community and the Policing Board, the PSNI could not possibly function without that national standard. It is the litmus test of how we deliver training to our officers and to police staff in forward-facing roles and in roles of investigative standards as well. The standards that people must achieve and the training process that they must undergo to achieve those standards are set out clearly for our officers and relevant staff. Every new police officer who has been recruited to the Police Service in Northern Ireland has been trained to a national standard as a means of assuring the Chief Constable and the public that we are on the right track.
1325. When we go through promotion processes, those national standards are engaged, where relevant, to set up the interview processes, the assessment centres and so on to ensure that people who are selected to be sergeants and inspectors have achieved the right standard to warrant that promotion.
1326. **Ms Susan Reid (Skills for Justice):** We in Victim Support are trying to apply the national occupational standards in a very similar way, but on a much smaller scale. Therefore, the help that we are getting at the minute from Skills for Justice is to take every role in the organisation, whether it is a volunteer, somebody managing volunteers or somebody who is doing advice work at a criminal injury compensation appeals panel, and, with help and guidance from them as experts, we are identifying the national occupational standards that are most critical to that role. Therefore, that could be around managing volunteers in one role or it could be about assessing the need of a victim. As Joe has outlined, there are particular criteria under the national occupational standards that help us to be very clear about what we look for and what we specify when we recruit, which means that we make best use of the money that we have when we go out to recruit and select new staff or look for volunteers.
1327. We also use it to guide our training. If we get it right and get the right people into the roles in the first place, we need to spend less resource in training them in-house and skilling them up to do the job.
1328. Finally, hopefully, we also reduce the amount of time and difficulty we might have in performing on issues. If we have the right people in the roles, we are all clear about what is expected and what is needed from that role, and we have a framework of accountability around that. Ultimately, that saves us time, and, dare I say it, hassle in performing to deliver the best service. Therefore, ultimately, the synergy of all that is that we have the most time as an organisation to support and help victims and witnesses.
1329. **Mr B McCrea:** I am not sure where to begin here. I apologise for not knowing very much about what you are doing. First, tell me how many people in Northern Ireland have a level 3 qualification in community justice work with victims, survivors and witnesses?
1330. **Mrs Thompson:** Thank you for asking that, because, this morning, I contacted our assessment centre to try to get an up-to-date number on that. Around 50 people are currently registered, some to do victims and witnesses and a number to do youth justice. In the past, hundreds of people have gone through those awards. For example, in the youth justice centre, all staff who are not qualified social workers hold the youth justice award and are required to do so in order to hold that post.
1331. Across organisations such as the Probation Board for Northern Ireland, a social work qualification is required and used for probation officers, but non-probation officer staff do a community justice qualification as a requirement of their job.
1332. In organisations such as policing, it has not been about the qualifications; it has been about benchmarking, roles, recruitment and performance management, which is just as important in terms of using standards and around the area of victims and witnesses. It is an area where there is a diverse

- workforce and a plethora of different training, but a lot of it is not accredited. Therefore, the introduction of these qualifications is important, and it is great to have organisations such as Victim Support progressing that.
1333. **Mr B McCrea:** There is an issue here that we have to let people know a bit more about what is going on, and I am interested to know how we would go about doing that. Obviously, you are here to talk about it.
1334. I suspect that a lot of people would be interested. Some elements may be suitable even for people in constituency offices, where we get a lot of volunteers. What are the plans to promote the NVQs?
1335. **Mrs Thompson:** You have hit on a really important point. It is difficult to get the message out there. To be honest, sometimes people do not get very excited about training courses, and sometimes the message is, first of all, about setting standards and achieving competence. We are delighted to be here today, because we want people to know about us.
1336. We have senior managers from each of the justice sector organisations on our Northern Ireland management steering group and we work quite closely with the other organisations at that level. I would expect that people at that level have heard of us and know what we do. However, it is harder to get out there on the ground. We have plans for how we communicate and raise our profile and we do a lot around e-communications. However, I accept your point: it is difficult to get the message out and we are really glad for any suggestions people can make.
1337. **Mr B McCrea:** I would be keen to give a hand where I can. I interact in other places with people such as the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO), the Probation Board and various others. I suppose we have established that we have to do something. Maybe we will find a way to do that collectively to help with the issue.
1338. I was quite taken by the idea of advanced apprenticeships in your written submission. What is the difference between an apprenticeship and an advanced apprenticeship?
1339. **Mrs Ryalls:** Apprenticeships are traditionally seen as the qualification that people take as school leavers. You might take it at level 2 or 3, and it is at that skill level. With employers in the justice sector, we are looking at whether we can have apprenticeships at levels 4 and 5 and above. That recognises that what is special about an apprenticeship is high-quality theoretical training mixed with on-the-job practice. We want to see that at a much higher level for our employers, who are saying to us that they spend lots of money on management and leadership qualifications, which are all very good in their own right, but they could do with something that is more about being on the job and apprenticeships that are for agencies across the sector. In other words, joint apprenticeships and not apprenticeships with, for example, just the police, the Prison Service or the Fire Service.
1340. **Mr B McCrea:** I happened to speak to representatives from another sector skills council today, and they told me that they were introducing the concept of, I think, premium apprenticeships.
1341. **Mrs Ryalls:** Right.
1342. **Mr B McCrea:** They have a similar concept. Those are for levels 4, 5 and 6. In fact, a famous person who designed the 'Titanic' was a premier apprentice, and you are not supposed to laugh at that. When you hear the word "apprenticeship", you think of somebody just coming out of school. Frankly, you think of someone like a car mechanic. I know that is not right, but that is the thing. I just wonder whether sector skills councils can get that gradation about there being a basic level and whether the terminology ought to be brought together.
1343. I could not help but notice that your CV refers to the justice sector as being



- highly politicised. What impact does that have?
1344. **Mrs Ryalls:** When sector skills councils were set up, about eight years ago, part of their role was to lobby the UK Government on behalf of employers on issues in the skills system that were making life difficult for them in recruiting and developing people. In some sectors, it is now easier to do that. A lot of our employers are government bodies, so it would be hard for employers to lobby against government because they would be lobbying against their paymaster. So we have had quite a tricky role in many respects. We work very closely with our employers, because there is a very difficult line to tread. Also, I do not think that a day goes by when you do not see something on the news about the justice sector, the way that it could be better or the pressures facing it, etc. Everybody has a view, including the general public, of how it would work. It is highly politicised. It is also highly unionised. That makes some of the work that we try to do with and for employers and employees elongated and difficult. Some straightforward solutions that we might like to put in place, and which employers would like to see put in place, have to jump through incredible hoops, and it takes quite a long time for them to emerge.
1345. **Mr B McCrea:** We probably do not have time to deal with it here today, but we are challenged here with a criminal justice system that seems to exist in a world of its own. Everybody is well-meaning, but nothing seems to improve. At some other stage, I would like to take you up on a discussion to see how we might improve things. Thank you very much.
1346. **Ms J McCann:** You are very welcome. Thank you for the presentation. Perhaps I picked this up wrongly, but did you say that you do not deliver the actual training? So you just advise on standards?
1347. **Mrs Thompson:** In a way, that separation is quite important. We are in the business of working with employers and stakeholders to identify the standard, but it could be further or higher education delivering the training, or it could be a work-based NVQ or an apprenticeship. If it is a vocational qualification, an awarding organisation, such as City and Guilds, Edexcel or whatever, would actually deliver it. We work with them, but we do not compete with them.
1348. **Ms J McCann:** In relation to your key partner, Skills for Justice, is that an organisation that you tap into? What is that list there for?
1349. **Mrs Thompson:** Our key partners in Northern Ireland are people from each of the justice sector organisations. When we say justice, we are including the third sector, work around community safety and victims and witnesses, and fire and rescue. In the broadest way, we work with representatives or senior managers from every one of those. We also feed in with the Department of Justice and the other relevant Departments, because obviously there is an interest from the Department for Employment and Learning and others.
1350. **Ms J McCann:** You were talking about the community safety aspect of it, and some of the key partners in the community sector are there, but the restorative justice groups, like Community Restorative Justice (CRJ) or some of the local community safety partnerships, are not there.
1351. **Mrs Thompson:** That is absolutely fair. It would become a very long list, but I can tell you that we certainly met the restorative justice organisations. We have also met local councils and community safety managers, and we work with the part of the Department of Justice that works in community safety. I do not have everybody on the list, but we do our absolute best to engage.
1352. **Mr A Maginness:** I think it is a good thing to try to upskill people in the sector and to try to create some sort of professional standards. The days when people were just told to get on with it are gone. It is very important. You are



- doing this work at a national level, but who actually sets the standards?
1353. **Mrs Thompson:** The way the process works is that, if we are going to develop a set of standards, they would initially need to be requested by somebody who needs to meet them. That could be a policing board, or sometimes it is part of a government or legislative initiative, and sometimes it is a gap that is identified by an employer. Somebody will come to us and say that they need standards because there is a new role, a new job, a new thing to focus on, or things have changed and some work is needed. Once that is done, a funding stream would be set up, and we would then identify all of the key bodies at national level and whether there are any existing regulatory bodies. With policing, a whole series of bodies would have a say about the standards. They would all be part of our reference group for that project. We would then convene across England, Scotland, Wales and Northern Ireland — each of those, normally. Occasionally, if something is very specific to one of those regions, we can do standards just for one.
1354. **Mr A Maginness:** In Northern Ireland at the moment, is the range of skills and standards being offered by, for example, further education colleges?
1355. **Mrs Thompson:** Vocational qualifications are offered by the awarding organisations City and Guilds and Edexcel, which work with the employers. In relation to the likes of the policing framework, you are talking about, for the most part, a framework for HR purposes rather than for the delivery of qualifications. Those standards will define the learning outcomes of the training that goes on at the police college.
1356. **Mr A Maginness:** Do you imagine that the police college, when it is up and running, will provide those sorts of courses and upskill people?
1357. **Mrs Thompson:** Absolutely; that is the plan. The college will not only do what the existing colleges do, which is to deliver courses that aim to give people the competence to meet those standards and to identify where that competence is, it will look at where training can be joined up.
1358. **Mr Stewart:** I know —
1359. **Mr A Maginness:** Sorry, Mr Stewart, I just want to deal with this point for a moment. I know that the members appointed to sit on the new policing and community safety partnerships (PCSPs) will not be delivering in the same sense as those in the justice system, but do you imagine that they will be upskilled?
1360. **Mrs Thompson:** We have a history here. Such things are voluntary, so no one is required to do them. However, following the initial introduction of community safety partnerships and district policing partnerships, we worked with six further education colleges, as they were under the previous structure, to deliver a training programme around assessing, putting together and delivering community safety plans and engaging with communities. Those courses ran, and I think that some still run. We also worked with the University of Ulster to put an academic curriculum behind the same standards, and the university then delivered degree modules based on that work. That is an example of how you can use the standards to develop —
1361. **Mr A Maginness:** I think that it would be very useful if members were offered such courses.
1362. **Mr Stewart:** At our last Committee meeting, we discussed the potential for assisting the development of skills in the PCSPs and how each of the organisations represented in Skills for Justice could assist with that. What you find across the justice sector and round our table is that there is great support for, if you like, going the extra mile. We all do this work in addition to our day jobs because of our commitment to the justice sector. We want to see a more joined-up sector and better help for victims and witnesses. That is where we focus a lot of our attention.
1363. The arranged contract for Desertcreat is up and running. I speak for the Prison

Service, the Fire and Rescue Service and ourselves when I say that we see the college as an open-door academy for the broad justice sector and, at the very least, the emergency services. We will seek to offer modules there that will be of use to the broad justice sector, be it Victim Support, the Probation Board or whatever. In that way, we feel that we can make a real contribution not only to a joined-up justice sector but to the efficiency and effectiveness of it.

1364. One of the projects that Skills for Justice is helping us with right now, and on which it is about to put proposals to us, is how to bring training modules for the Fire and Rescue Service, the Prison Service and the Police Service closer together, so that we all learn from each other and we are not duplicating our efforts. Take first aid as a very simple example: there is not a unit on first aid for police officers, another one for fire and rescue officers and yet another for prison officers. We do multi-training together to the one standard. We now have to fit the national requirements for each of those services into the one standard; that is one of the tasks. However, when we get the new college up and running, we would like to go beyond that co-operation to achieve about 30% integration of training for those three services. We have asked Skills for Justice to assist us with that curriculum development.
1365. **Mr A Maginness:** That is very sensible. Mr Stewart, I interrupted you previously.
1366. **Mr Stewart:** That was the point that I was going to make.
1367. **The Chairperson:** Thank you very much for coming along today.
1368. **Mrs Thompson:** Thank you for hearing us.





Northern Ireland  
Assembly

Appendix 3

# Written Submissions





- 1 Autism NI
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## Autism Northern Ireland

Thank you for this opportunity to provide written evidence on behalf of Autism NI for the Committee inquiry into the Criminal Justice Services available to victims and witnesses of crimes in Northern Ireland.

1. Autism NI, as Northern Ireland's Autism charity, has a membership that includes almost 2,000 carers as well as a Family Support network of over 30 groups.
2. Autism Spectrum Disorder (ASD) is a lifelong disability that can limit a person's motor control development and skill acquisition. People with ASD generally have trouble interacting socially, communicating and may display behavioural problems.

Sensory sensitivities to touch, pain, temperature and sounds are common for people with Autism. These impairments may result in problems associated with neurological (brain) functions. Examples of some problems may include within the planning, attention, motivation and/or emotional aspects of completing a task or performing a movement.

Communication involves both understanding language (receptive skills) and providing information (expressive skills). On a day to day basis, individuals with ASD are putting enormous physical and psychological energy into being present and focussed. This is not only an exhausting and stressful experience daily for individuals but can put a person with ASD at risk of mental health issues later in life.

Autism Spectrum Disorder is as the name suggests a spectrum. Each individual experiences the disability in a unique way. As a result three key factors could cloud the ability to assess an individual with ASD's ability to make decisions:-

Firstly, people with ASD can find it difficult to explain what they are thinking. They can also find it hard to understand someone else's point of view. This means talking to people and interacting can be very complex for them.

Secondly, understanding what people mean when they present information verbally is also difficult. Some people with ASD do not understand any communication (not even pointing). Others get confused. They experience periods of heightened anxiety which can mask actual ability. Baron-Cohen and Belmonte (2005) suggest that individuals with ASD fail to integrate emotional contextual cues into the decision-making process.

Thirdly, people with ASD often do not cope very well with changes to their routine. They find it hard to make quick decisions and imagine what they should do next.

3. In relation to responding to questioning or assessment as a witness, many individuals with ASD may have difficulty. They may be particularly unable to respond to abstract, complex or indirect questions or give clear and adequate explanations for their behaviour. They may also lack any real understanding of the situation they find themselves in (Allen et al, 2007). In order to avoid feeling under pressure, which can often provoke anxiety for individuals with ASD, they often will agree to a question or will indicate that they completely understand an issue when in fact they do not. This is a strategy they have developed in order to blend in and be seen as the same as neurotypical people. Safeguards need to be in place to ensure and measure the understanding of an individual with ASD in order to avoid limiting that person's rights.

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For those who are victims or witnesses of crime, it has been suggested that they will have major difficulties in navigating the CJS (Allen et al, 2007). The report “Locked Up and Locked Out: communication is the key”, a report of a conference hosted by the Youth Justice Agency and the Royal College of Speech and Language Therapists, recommends provision of intermediaries within Criminal Justice System and that reasonable adjustments are made for people with communication support needs. It is also vital that there is an early intervention/integrated approach to develop and commission a comprehensive speech and language therapy service throughout the criminal justice pathway to meet the needs of young people with a communication disability.

4. There is huge potential for misunderstanding and misinterpretation of the behaviour of an individual with Autism when they come into contact with Criminal Justice Agencies; however, with specialist training a range of agencies can be made more aware of the issues. Autism NI has worked in partnership with the PSNI Diversity Unit and District Training Teams and has delivered an Autism Awareness training package aimed at frontline officers. The feedback from these sessions suggest strongly that such training was well received (Police Ombudsman for NI and NI Policing Board report “Views and Experiences of People with Learning Disability in relation to Policing arrangements in NI”). However, this training needs to be available to the range of criminal justice agencies that may be involved, e.g. the NI Courts service.
5. Failing to consider any one of these factors can mean that an individual with ASD may not appear to have the ability or capability to make choices. Even as victims of crime, individuals with Autism may have such poor social skills that might lead others into thinking that they are being arrogant, non-compliant and non-cooperative. Sometimes misunderstandings can arise because individuals with Autism may not understand the meaning of a procedure with regards to the law. They may lack deference to people they come into contact with, including the police and others in authority, especially when feeling anxious or threatened. In some circumstances, we would prescribe that parental, carer or Autism trained appropriate adult support is always available and that an individual with ASD must be supported and given all practicable help. A range of appropriate strategies to facilitate all of the above should be considered, e.g. Autism friendly information and appropriate augmentative communication adaptations.

## Committee on the Administration of Justice

1. CAJ is an independent human rights organisation with cross community membership in Northern Ireland and beyond. It was established in 1981 and lobbies and campaigns on a broad range of human rights issues. CAJ seeks to secure the highest standards in the administration of justice in Northern Ireland by ensuring that the Government complies with its international and national human rights obligations.
2. The Committee for Justice at the Northern Ireland Assembly issued a call for evidence to the above inquiry in October 2011. This is in the context of the Department of Justice (DoJ) intention to develop a new strategy for victims and witnesses of crime. The aim of the inquiry is to identify the outcomes that a new strategy should deliver and make recommendations on the priorities and actions that need to be included in such a plan. The Terms of Reference for the inquiry are to:
  - Review the effectiveness of the current approach and services provided by the criminal justice agencies to victims and witnesses of crime;
  - Identify the key issues impacting on the experiences of victims and witnesses of crime of the criminal justice system and any gaps in the services provided;
  - Identify and analyse alternative approaches and models of good practice in other jurisdictions in terms of policy interventions and programmes;
  - Consider what priorities and actions need to be taken to improve the services provided to victims and witnesses of crime;
  - Report to the Assembly on its findings and recommendations by February 2012. .
3. CAJ is grateful for the invitation to submit evidence to the Committee on this issue. CAJ has made a number of submissions in recent years to various reviews and consultations undertaken by the Northern Ireland Office (NIO), Department of Justice (DoJ) and Northern Ireland Law Commission (NILC) relevant to the issue of criminal justice services that are available to victims and witnesses of crime. By way of our contribution to the Committee's inquiry this submission will provide brief summaries of the contents of these submissions, links to the full submissions and an outline of some of the actions that have been taken following the various reviews and consultations to which CAJ has responded.

### **Response to 'Special Measures Policy' consultations**

4. In May 2009 CAJ responded to a pre-policy consultation undertaken by the NIO in relation to the special measures provisions contained in the Criminal Evidence (NI) Order 1999.<sup>1</sup> Here, CAJ stated that the special measures offered in the 1999 Order fall short of the international human rights standards contained in the UN Model Law on Justice in matters involving Child Victims and Witnesses of Crime.<sup>2</sup> CAJ further recommended that the 1999 Order should include provision for prioritizing cases where witnesses are vulnerable or under 18, so as to lessen the length of time before trial, which may contribute to the distress witnesses suffer. CAJ expressed concerns at the confusion surrounding when and how the use of special measures would be initiated, as well as the lack of procedural guidelines as to the identification of vulnerable witnesses.

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1 S231 CAJ Submission to the Northern Ireland Office Special Measures Policy an Evaluation and Review, May 2009, <http://www.caj.org.uk/contents/368>

2 Available at: [http://www.unodc.org/pdf/criminal\\_justice/Guidelines\\_E.pdf](http://www.unodc.org/pdf/criminal_justice/Guidelines_E.pdf)

5. A summary of responses to the pre-policy consultation was published by the DOJ in the full consultation document.<sup>3</sup> In relation to CAJ's concerns that the special measures offered in the 1999 Order fall short when measured against international human rights standards, it stated that the UN Model Law on Justice in Matters involving Child Victims and Witnesses of Crime, which was published in 2009, is intended as a tool to assist States adapt their national legislation where they do not already have provisions similar to those contained in the Guidelines. In response to CAJ's concerns over the lack of procedural guidelines as to the identification of vulnerable witnesses, it stated that guidelines on the definition of vulnerable witnesses would be contained in the Achieving Best Evidence guidance. In relation to CAJ's suggestion that cases involving vulnerable witnesses, or witnesses under the age of 18, should be prioritized, the summary of responses stated that a broad, multi-faceted programme was currently underway in an effort to eradicate, where practicable, avoidable delay from criminal case processing in general. The summary of responses stated that this was being driven on behalf of Ministers by the Criminal Justice Board. Aside from this consolidated programme, the DoJ noted that as part of their duty as public service providers, the respective criminal justice agencies have a formal commitment to the service which they have pledged to deliver to the public in general and to deal with all cases carefully, sensitively and as expeditiously as possible to ensure a best service provision for all. The Criminal Justice Inspection Northern Ireland published a report in June 2010 which recognised the effect avoidable delay has on victims and witnesses generally:

The negative impact of avoidable delay can be severe for victims and witnesses and can undermine the quality of justice. It is known that the quality of evidence declines with time, which can put victims and witnesses under additional pressure in court. This can also undermine confidence in the justice system and contribute to a reluctance to report crime or act as a future witness.<sup>4</sup>

6. In May 2010 CAJ responded to the formal public consultation on special measures.<sup>5</sup> Our response noted with pleasure that many of the recommendations made to the NIO during the pre-policy consultation were taken on board in the DoJ proposals. CAJ strongly agreed with the proposal to bring the 1999 Order in line with other aspects of national law, which recognise the 'child' as being all young people under the age of 18. CAJ notes that the Justice Act (Northern Ireland) 2011<sup>6</sup> amends the 1999 Order to recognize a 'child' as being a person under the age of 18. CAJ would strongly urge that this section be commenced without delay, so that Northern Ireland law can concur with international standards contained in instruments such as the United Nations Convention on the Rights of the Child (UNCRC). CAJ also agreed with a proposal to permit young people to have a say in how they give their evidence and as to whether they want to avail of special measures at all. CAJ believed that this proposal would further compliance with the UNCRC, which effectively guarantees a child's right to be heard to participate in any judicial or administrative proceedings affecting them.

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3 Department of Justice 'Consultation on the statutory special measures to assist vulnerable and intimidated witnesses give their best evidence in criminal proceedings' March 2010.

4 Criminal Justice Inspection Northern Ireland 'Avoidable Delay' June, 2010 p. 63.

5 S259 CAJ's Response to Department of Justice's Special Measures Consultation, May 2010 <http://www.caj.org.uk/contents/395>

6 Justice Act (Northern Ireland) 2011, s. 7



The 2011 Act<sup>7</sup> amends the 1999 Order to allow a child witness to inform the court that they do not wish special measures to apply and allows the court to limit the application of special measures if it is satisfied that this would not diminish the quality of the child's evidence. This amendment appears to place the onus on the child witness to inform the court of their wish for special measures not to apply to them, rather than on the court to enquire with the child as to whether they wish the special measures to apply. As CAJ stated in the response to the pre-policy consultation the presiding judge should weigh the relevant evidence, including the views of the witness, before deciding that special measures are required for a child witness. Whilst CAJ would recommend that this section be commenced in order to further compliance with the UNCRC, we would urge that in practice the decision as to whether special measures should not be applied would occur as a result of an inquiry undertaken by the court, without the child necessarily having to bear responsibility for instigating it.

7. CAJ agreed with a proposal to amend the 1999 Order to enable a supporter to accompany a witness when giving evidence *via* live link room. The 2011 Act<sup>8</sup> amends the 1999 Order to allow a specified person to accompany the witness. However, this section has also not yet been commenced. CAJ also requested clarification as to who could qualify as an intermediary through whom the examination of a witness could be conducted. In the summary of responses to this consultation published in September 2010 by the DoJ it was accepted that work needed to be done in relation to recruiting and training intermediaries, producing codes of practice or ethics for intermediaries and setting up a register of intermediaries.<sup>9</sup> The DoJ indicated that they intended to proceed by including an action to develop a model for the provision of an intermediaries service for vulnerable witnesses as part of its Strategic Action Plan 2010-11. This action was included in the eventual Action Plan<sup>10</sup> and responsibility for its delivery was given to the DoJ. The Action Plan 2011-12 states that DoJ was to have an implementation plan in place by September 2011 for the provision of an Intermediaries Service to help vulnerable witnesses.<sup>11</sup> CAJ is not aware if such an implementation plan has since been put in place and clarity on this issue would be welcomed.

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7 Justice Act (Northern Ireland) 2011, s. 8. It amends the 1999 Order at ss. (4) and states 'In paragraph (4)—  
 (a) omit the "and" at the end of sub-paragraph (b), and  
 (b) after sub-paragraph (b) insert—  
 "(ba) if the witness informs the court of the witness's wish that the rule should not apply or should apply only in part, the rule does not apply to the extent that the court is satisfied that not complying with the rule would not diminish the quality of the witness's evidence; and".  
 (5) After paragraph (4) insert —  
 (4A) Where as a consequence of all or part of the primary rule being disapplied under paragraph (4)(ba) a witness's evidence or any part of it would fall to be given as testimony in court, the court must give a special measures direction making such provision as is described in Article 11 for the evidence or that part of it.  
 (4B) The requirement in paragraph (4A) is subject to the following limitations —  
 (a) if the witness informs the court of the witness's wish that the requirement in paragraph (4A) should not apply, the requirement does not apply to the extent that the court is satisfied that not complying with it would not diminish the quality of the witness's evidence; and  
 (b) the requirement does not apply to the extent that the court is satisfied that making such a provision would not be likely to maximise the quality of the witness's evidence so far as practicable (whether because the application to that evidence of one or more other special measures available in relation to the witness would have that result or for any other reason).  
 (4C) In making a decision under paragraph (4)(ba) or (4B)(a), the court must take into account the following factors (and any others it considers relevant) —  
 (a) the age and maturity of the witness;  
 (b) the ability of the witness to understand the consequences of giving evidence otherwise than in accordance with the requirements in paragraph (3) or (as the case may be) in accordance with the requirement in paragraph (4A);  
 (c) the relationship (if any) between the witness and the accused;  
 (d) the witness's social and cultural background and ethnic origins;  
 (e) the nature and alleged circumstances of the offence to which the proceedings relate.".

8 Justice Act (Northern Ireland) 2011, s. 10

9 Department of Justice 'Summary of responses to the consultation on the statutory special measures to assist vulnerable and intimidated witnesses give their best evidence in criminal proceedings', September, 2010.

10 Department of Justice 'Victim and Witness Strategic Action Plan 2010–2011'.

11 Department of Justice 'Victim and Witness Annual Action Plan 2011–12.'

8. CAJ stated that the provisions provided for in the 1999 Order permitting video recorded cross-examination or re-examination of witnesses raised serious questions, as these could lead to conflict between the rights of victims and witnesses and the rights of defendants. CAJ noted that the application of these special measures, once commenced, would need to weigh these rights. CAJ would support the use of such special measure in exceptional circumstances only, such as cases involving the very young, those with certain mental incapacity or those with terminal or a degenerative illness. However, we stated that the DoJ should assess whether the pre-recording impacted on the right to a fair trial. The summary of responses referred to above noted the concerns in relation to the commencement of these provisions. It indicated that work would begin on commencing them once an intermediaries service had been put in place. CAJ is not aware of any proposal made since then to commence this provision and clarity as to its status would be welcome.
9. Similarly, CAJ also believed that the DoJ should review whether the proposal that witnesses in proceedings relating to allegations of offences involving firearms, knives and offensive weapons have automatic eligibility for special measures would impact on the right to a fair trial for the defendant. In the summary of responses referred to above, the DoJ stated that it was not inclined to take the proposal forward at that time, but would keep the situation under review.
10. In relation to sexual offences CAJ accepted that the proposal to allow the admission of video recorded statements as evidence in chief could lead to fewer instances of complainants refusing to give evidence. However, CAJ believed that it was vital that the rights of the victim were balanced with and did not undermine the rights of the defendant. The summary of responses referred to above indicated an intention to proceed to amend the 1999 Order, to make provision to admit the video recorded statement of complainants who were over 18 years of age in respect of sexual offences tried in the Crown Court, only unless that requirement would not maximise the quality of the complainant's evidence. The 2011 Act<sup>12</sup> amends the 1999 Order to provide that a court must admit a video recorded statement of the complainant as evidence in chief, unless the court is of the opinion that in all the circumstances of the case, it would not be in the interests of justice for the recording, or part of the recording, to be admitted. The court can also refuse to admit the recording in evidence if the court is satisfied that this would not maximize the quality of the complainant's evidence. This section has yet to be commenced.

#### **Response to Offender Levy and Victims of Crime Fund consultation**

11. CAJ responded in May 2010 to the DoJ consultation<sup>13</sup> on introducing an Offender Levy and Victims of Crime Fund.<sup>14</sup> CAJ agreed in principle with the proposal to create an offender levy and a victim of crime fund in order to deliver better services to victims. However, we believed the DoJ proposals as to how this would be achieved were vague. In accordance with the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power<sup>15</sup> CAJ agreed that offenders should pay compensation for victims and that government should endeavour to establish, strengthen and expand available national funds. The summary of responses published by the DoJ for this consultation stated that the principle of using the revenue from the levy exclusively for funding victim's services would be maintained.<sup>16</sup> Decisions relating to the allocation of funding from the levy are to be made by the Victims and Witnesses Task Force. The 2011 Act introduced an offender levy for sentences imposed by a court and also for certain fixed penalty offences.<sup>17</sup> These provisions have yet to be commenced.

12 Justice Act (Northern Ireland) 2011, s. 9.

13 Department of Justice 'Offender Levy and Victims of Crime Fund: A Northern Ireland Consultation' March, 2010.

14 S260 CAJ's Commentary to the Department of Justice's Offender Levy and Victims of Crime Fund Consultation May 2010, <http://www.caj.org.uk/contents/137>

15 Available at: <http://www.un.org/documents/ga/res/40/a40r034.htm>

16 Department of Justice 'Offender Levy and Victims of Crime Fund: A Consultation Summary of Responses and Way Forward' October, 2010.

17 Justice Act (Northern Ireland) 2011, s. 1 - 6

**Response to consultation on Vulnerable Witnesses in Civil Proceedings**

12. In June, 2010 CAJ responded to the Northern Ireland Law Commission's consultation in relation to Vulnerable Witnesses in Civil Proceedings.<sup>18</sup> Whilst this submission related to civil proceedings, it raised a number of issues of general application to both civil and criminal proceedings. These included the applicability of international standards relating to vulnerable witnesses, such as the United Nations Convention on the Rights of Persons with Disabilities.

**Response to Proposals to Achieve Best Evidence in Criminal Proceedings**

13. In October 2010 CAJ also responded to the DoJ consultation<sup>19</sup> on Proposals to Achieve Best Evidence in Criminal Proceedings.<sup>20</sup> Here CAJ commended the DoJ for the work put into the guidance, but we strongly suggested that mechanisms for monitoring the implementation of the procedures be put in place. CAJ recommended that a review by practitioners and other suitable stakeholders be undertaken at an appropriate time after commencement. We also recommended that training for all those involved in the legal process be provided. In the summary of responses to this consultation the DoJ recognised the need for initial and on-going training for all potential users of the guidance, as well as the need to monitor the guidance's implementation in practice.<sup>21</sup> Plans for training and monitoring were stated as being priorities for the Vulnerable and Intimidated Witnesses Working Group. The 2011–12 Action Plan referred to above indicates that this Working Group and DoJ will complete a review of the practitioner guidance by December 2011. CAJ hopes that the contents of this review will be made public and be open to comment.

**Response to Code of Practice for Victims of Crime consultation**

14. In January 2011 CAJ responded to the DoJ Consultation<sup>22</sup> on a Code of Practice for Victims of Crime.<sup>23</sup> CAJ welcomed the commitment shown by the DoJ to victims of crime, as illustrated by the consultation. We stated that the provision of appropriate and adequate services to victims could improve public confidence in the criminal justice system and contribute to a more peaceful society. CAJ suggested that the name 'Code of Practice' was inaccurate, as the document was in fact an outline of the service provision victims can expect, rather than a 'Code of Practice' *per se*. We also suggested that a similar document be disseminated to practitioners within the criminal justice system, given the need to understand the policies and practices relating to services for victims. CAJ believed that the Code fell short of human rights standards and best practice, most notably in relation to the rights of victims, co-ordination of agencies, complaints, language and monitoring. In relation to these concerns, the DoJ indicated in its summary of responses that it had submitted the Code to the Plain English Campaign for comments and suggestions and that most of these were taken on board.<sup>24</sup> The other concerns that CAJ expressed were not fully addressed. The 2011-12 Action Plan referred to above indicates that the DoJ and Victims and Witness' Support Group will monitor the implementation of the Code of Practice for Victims of Crime, place it on a statutory footing and commence a 12-month review of its content in March 2012. CAJ would hope that the contents of this review will be published.

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18 Northern Ireland Law Commission 'Consultation Paper on Vulnerable Witnesses in Civil Proceedings' NILC 4 (2010).  
 19 Department of Justice 'Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, Using Special Measures and Provision of Pre-Trial Therapy Consultation on Best Practice Guidance for Practitioners', July 2010.  
 20 S267 CAJ's Submission to the Consultation on Proposals to Achieve Best Evidence in Criminal Proceedings, October 2010 <http://www.caj.org.uk/contents/719>  
 21 Department of Justice 'Summary of responses to the consultation on best practice guidance for practitioners on achieving best evidence in criminal proceedings: guidance on interviewing victims and witnesses, using special measures and provision of pre-trial therapy' March, 2011.  
 22 Department of Justice 'Consultation on a Code of Practice for Victims of Crime', October, 2010.  
 23 S276 CAJ's Response to the Consultation on the Code of Practice for Victims of Crimes, January 2011 <http://www.caj.org.uk/contents/792>  
 24 Department of Justice 'Summary of responses to the public consultation on a code of practice for victims of crime'.

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## Individual – Lisa

### A Victim's Experience

Lisa contacted Victim Support NI through our Facebook page after she had read about our post advertising the Justice Committee Inquiry. Lisa is very upset about the way she has been treated by the Criminal Justice System and wanted to get more information and advice about what she can do.

Lisa was on a night out in Belfast with her friends in January. She woke up the next day and discovered texts on her phone from an unknown number. From what was said in the texts, she realised something had happened but didn't have any recollection of a section of the night. She then had a couple of flash backs of being in an alley way near the club.

Lisa reported this to the police the next day. Two police officers came and picked her up from her house and took her to the Rape Care Unit in Garnerville, where she was met by another police officer. Lisa was asked if she would like her details sent to Victim Support NI and she agreed but did not hear anything back. It was decided Lisa was too confused to give a statement so was told she could come back the next day and give it. She had an examination by the Doctor that day, spending about 4/5 hours in total there.

Lisa went back to the station two weeks after giving her statement to sign it. Once there, the female police officer started to question what she had said in her statement. Lisa felt like the police officer did not believe her as she was asking questions like, was she sure she just didn't do something she shouldn't have and did she forget what happened on purpose. The police officer said Lisa could only withdraw the allegation if she said that she had given consent. Lisa refused because if she felt that if she couldn't remember then she wasn't reasonably able to give consent.

Lisa found out that someone had been arrested for the incident. The police told her when she was giving her statement that a suspect had been arrested, although they told her on the first day they had tracked him and were going to arrest him.

After the initial police contact, Lisa had to ring the police officer several times for updates. She rang again in March where she was told that forensic evidence proved that intercourse had occurred. She rang back to ask what would happen and was told by the police officer that there was no developments but he would like to call out to Lisa's house to "discuss things". Lisa found this strange and felt like the police officer wasn't being truthful on the phone.

When the police officer called out to Lisa's house, a more senior officer accompanied him. Lisa felt that once the forensic evidence was received by the police their attitude changed to her and they were more sympathetic. It felt like they actually believed her. The senior police officer explained that the file would be sent to PPS for a decision. Lisa didn't hear anything more until she received a letter from PPS stating her case would not be going to court. She felt the reasons given by the Public Prosecution Service for why the case wasn't continuing where in relation to something she did/did not do.

She has since received guidance from a solicitor who advised appealing this decision. Lisa did this but has since learnt the appeal was not successful. Lisa stated that if she hadn't her mother to support her through this whole process, she would not have even given her statement and would not have continued.

## In her own words....

If I was to name the experience I would refer to it as stuck between the devil and the deep blue sea. No matter what I said or did it was wrong, even though I was just trying to tell the truth...and whatever the outcome of the case, I was always going to be left unhappy.

The main message I would like to get across is for more understanding of what victims are going through and the impact of actions and words from the authorities. I was made to feel like I was wasting police time and only reported the crime to cover up my own mistake. I lived for months thinking I'd done the wrong thing and that this person was telling the truth before police had even taken any statements from friends, waited for forensics and despite a police doctor reporting blunt trauma. There is a high amount of pressure on from day one. I was told I could go to court if I made a statement. Also, with regards to the Public Prosecution Service, I think the system of deciding what goes to court is unfair. I had to wait 8 months to be told there wasn't enough evidence for reasons I found unfair, and in a cold patronising letter.

A great difference in all of this would have been more support. I was left alone with no contact or someone to explain things to me. I had to arrange my own counselling to get any support at all. I felt like I wasn't the victim until it was proved I was, rather than a victim until they proved I was not. Instead I felt I only got police backing when they confirmed the suspect was lying. It would have helped as well if the whole process moved a lot quicker. It is a lot to have hanging over your head for 8 months.

What I think needs changed is that victims need to be seen as humans with real feelings and emotions. The best thing that could change is attitudes towards victims. The amount of cases that actually even get to court is appalling and seemingly near impossible. Until this changes, then men and woman aren't going to want to come forward.

If this happened to someone else, I would never discourage them not to report the crime, but would prepare them for a difficult experience. Certainly, if it happened to me again I don't think I would report it.

## Individual – K Robin

I welcome this opportunity to make available to the Committee a personal submission of some of the key issues that impact on victims and witnesses of crime. I offer this evidence on behalf of my Brother Tony Robin who was a victim of the worst crime of all, murder.

### **Background:**

My Brother Tony Robin was murdered by Angeline Sarah Jane Mitchell on May 11th 2009 at his home in Belfast. He was stabbed multiple times, the first wound was the fatal wound and she continued to stab him as he tried to get away from her. My Brothers teenage Son was at home; Tony called to his Son for help and he was to witness almost all of the attack and was key witness at the murder trial.

### **The trial reference codes relating to my Brother are: 2010 NICC 52 & McL8034.**

My family were fortunate only inasmuch as the murderer was arrested at the scene and there being no doubt of her guilt, was held in remand and, having been found guilty of murder is now serving a life sentence of 12 years.

The Murder Investigation Team who handled the murder enquiry carried out a first-class investigation and offered support and advice to my family where possible. I am full of praise for the Murder Team. Their support was to be the only support and consideration we would receive from the date of the murder to sentencing of the perpetrator.

I fully realise that the Department of Justice is not responsible for the actions of criminals in the first instance. I also understand that there is a need for certainty and thoroughness whilst investigating and bringing to justice those who commit murder and serious crimes. I feel the Department should shoulder responsibility though for making the aftermath of murder and serious crime for victims, witnesses and their families a cold, hurtful and distressing place to be.

I have two major grievances with the Criminal Justice/PPS:

- (i) Angeline Mitchell was sentenced to life for the murder of my Brother. She was given the lowest starting tariff for the murder. I and my family feel it was too low a sentence. We did want to appeal the tariff. I was shocked when I did enquire about an appeal to find out that we had missed the opportunity to appeal as there is only 28 days to request an appeal. We were not advised in any way by PPS after sentencing. In fact they did approach my family or speak to us at all after the sentence hearing. We were never asked our thoughts on the length of the sentence or if we had any questions.

Is it not unfair to give relatives who will mostly have no legal experience or will lack the skills to deal with serious legal matters such a short time to prepare and submit an appeal? Should it not be mandatory that victims and their families be informed of these important facts? I personally feel that I have in a way let my Brother down by not seeking a higher tariff for his murderer. I feel very unsettled and that full justice has not been served.

- (ii) Due to the wording used by Justice Mc Laughlin when he delivered the tariff on December 10th 2010 the Belfast Telegraph rang a blazing front page headline on December 11th 2010 with a picture of his murderer and another female who murdered her partner alleging they had both done so because they were the victims of domestic abuse. I cannot put into words the hurt, shock and deep upset this caused and still does to all of my family. I contacted the paper directly to voice my complaint and disbelief at the headline and lengthy inside story (the inside story did not backup the sensational headline) I was told that it reflected the tone set by the judge. I sat through



the full evidence of the trial and there was no evidence that she was a victim on that night or any other, if anything Mitchell had a history of creating victims.

I hope and I request that the Department of Justice and all Criminal Justice Agencies review all approaches for effectiveness and approach. I also hope that the Department of Justice sincerely intends to develop new and better strategies for victims and witnesses of crime in Northern Ireland and this is not a PR exercise. Because, regardless of what spin is put on it, the NI Justice System does not offer victims good level of support. Everything centres on the perpetrators. Perpetrators will have a team of funded agencies advising and representing them; they will be told what will happen to them, when it will happen, what support is available to them. There will a range of booklets/handouts and online information sites for them to refer to. This is not the case for victims.

The experience for victims, witnesses and their families is:

- Victims, witnesses will find that there is a lack of information and service from the court service and PPS.
- Lack of reference points or agencies to advise victims and their families.
- That the business and interests of the court centre on the perpetrator and the needs of the court not the victim, they are a by-product.
- That their murdered loved ones will become invisible to the court but will be on trial.
- A lack of protection from PPS for witnesses during cross examination.
- Countless court appearances/hearings/mentions/reviews and a lengthy wait before trial – it is not unusual for families not to be informed of dates or changes to important court dates.
- It appears that women murderers in NI will be treated more leniently than their male counterparts

# Individual – Parent of victim of crime

## Members of the Committee for Justice

In response to your invitation for organisations or individuals to submit evidence to inform the Committee's Inquiry, I have outlined below my recent experiences of the Justice system, both as a parent of a young teenage victim of crime and also as a witness.

Whilst I appreciate that the Committee will hear and receive evidence from statutory and voluntary agencies I feel that it is equally important that the Committee are aware of individuals' personal experiences so as to aid the development of an effective strategy, experiences which are not necessarily obtained via surveys etc. I therefore welcome the opportunity provided by the Committee for victims and witnesses to submit their views.

## Background

My experience of the Criminal Justice system stemmed from an assault upon a young teenager, whom, at such a young age, would not understand the criminal justice process.

The teenager was the victim of Grievous Bodily Harm (GBH) in **Oct 09** following an assault by 3 males (all under the age of 18 at time of offence), which was reported to the PSNI the following day. The PSNI arrested the suspects within 14 days of the incident and were all originally charged with GBH with intent. Both my view and the view of the victim was that this was a positive first step on what was to become a long and arduous path.

## 1. Effectiveness of current approach

- 1.1 The legal process took almost 2 years to complete (**Sep 11**), during which time the victim and I came into contact with a number of organisations; PSNI, PPS, Victim Support, NICTS, NSPCC and the Youth Justice Agency (YJA). Whilst some aspects of the judicial process were effective, others I feel fell short of the service a victim would expect to receive, especially one so young.
- 1.2 From our perspective the Criminal Justice organisations carried out their operational tasks in an effective manner, but we were frustrated at the lack of pro-active communication from some, which, in addition to some working practices/policies, added to the stress and adverse impact of the crime upon the victim.

## 2. Key issues impacting on victims and witnesses and gaps in services

### 2.1 Communication

One of the key issues, from my experience, which impacted upon the victim and I was the lack of pro-active communication from a number of Criminal justice Agencies. Throughout the 2 years of the legal process I constantly found myself having to 'chase information' in order to keep the victim informed.

- 2.1.1 **PSNI/PPS** – Following the arrest of the 3 suspects they were subsequently bailed, but unbeknown to the victim or I the suspects attended a further **bail hearing in Dec 09**. We were not informed of this hearing and as a result we were not aware of the full conditions of bail imposed by the Court (only those which the PSNI informed us of). Therefore neither the victim nor I could inform the PSNI or the Courts if there was any breach of bail.
- 2.1.2 **NICTS** - This issue was further compounded by the fact that NICTS informed me that as neither I nor the victim were present in court that they could not reveal the bail conditions to us. I subsequently asked that if the media were to enquire about the case would they be informed of the bail conditions? NICTS told me that if the media contacted them then NICTS could 'release all information regarding the bail conditions for defendants' – but victims can't receive these details unless they are physically present in the courtroom?

- 2.1.3 **PPS** – I was informed by the PSNI that a file was passed to the PPS in Dec 09. However, I only became aware of the PPS' decision to prosecute when I contacted them in July 2010, to be informed that the PPS had reached their decision in Feb 2010. This information was not communicated to either the victim or I prior to July 2010 (5 months after the PPS made their decision).
- 2.1.4 The cases of the 3 defendants were brought before court on approx 9 occasions before it was finally disposed of in Sep 11. However, the PPS did not inform me or the victim of at least 6 of the court dates. Although some of these dates were to hear legal discussions/practices I feel that the PPS should have kept us informed.
- 2.1.5 The PPS 'Victims and Witness Policy' highlights the importance of information provision to victims and witnesses. I am of the view (from my own experience) that this policy, although well intentioned, is not being put into practice.
- 2.1.6 I have no doubt that had there been an improved level of communication from the PPS I would have been in a better position to understand and in turn be in a better position to explain the process to a vulnerable young victim.
- 2.2 Services**
- 2.2.1 Prior to the actual court hearing in August 2011 we had been made aware (via leaflets) of various services available to victims and witnesses.
- 2.2.2 Despite registering with both Victim Support and the NICTS Witness Service no representatives of either the NICTS or Victim Support pro-actively contacted me or the victim in advance of the court hearing to arrange a meeting and go through court procedures.
- 2.2.3 Fortunately the NSPCC were alerted via the PPS to the age of the victim and therefore the NSPCC took both the victim and I through the process and allowed us to view the video-link facilities etc.
- 2.2.4 **Youth Conferencing Service** – The court convicted 2 of the accused and both received a court ordered youth conference. Prior to participating in the Youth Conference I had sought clarification on some issues, one of which was the period of rehabilitation for an offence of GBH by a minor.
- 2.2.5 On 2 occasions I was informed by the YJA that the rehabilitation period was 5 years. I queried this further and ascertained that the rehabilitation period was in fact 2 years and not 5, as originally stated by the YJA. The purpose of obtaining this information was to help me decide on what content went into the Youth Conference plan. I participated on behalf of the victim as he felt he had got closure through the court and did not want to re-live the assault through a youth conference.
- 2.2.6 My experience of the Youth Conference is two-fold, positive from the point of view of having the opportunity to ask questions of the offenders, but negative from the point of view that following the conference a report and plan are provided to the court and offenders, but the report of the Youth Conferencing is not pro-actively shared with either the victim or their representatives. Two days before the court hearing I specifically requested sight of the Report and subsequently changes were made to the content of the report.
- 2.2.7 The YJA asked if I would complete a survey on my experiences of the youth conferencing service and when I went to complete it I was informed I could not as only a victim can complete it. How therefore can figures be accurate if representatives of victims can't complete a survey?

### **3. Priorities and actions that need to be taken to improve the services provided to victims and witnesses of crime**

3.1 A victim or witness will have no doubt have had a traumatic experience (as a direct result of an incident) prior to becoming involved with the Justice agencies and I believe that key to reducing the level of trauma is effective communication.

3.2.1 Below are my views of a few simple steps that each Agency (whom I came into contact with) can do to improve on the services that are available to victim and witnesses.

#### **3.3 PPS**

3.3.1 Within their 'Code for Prosecutors' (para 6.1.2) the PPS give a commitment to the '*Delivery of information at key milestones in the progress of a case, for example, prosecutorial disposal decision, notification of any major changes to the case, etc.* I am of the view that the PPS should, from the outset of the case define 'key milestones' to the victim and alert them that they have received a file from the PSNI.

3.3.2 Victims do not receive copies of statements made by the accused in advance of any court proceedings, yet the accused receive all statements made by victims and witnesses. I feel that legislation should be introduced that ensures information provision is on an equal footing.

3.3.3 The PPS should come under the auspices of the Attorney General to provide oversight and governance.

3.3.4 An independent complaints mechanism should be introduced for victims, rather than the PPS being the final arbiter on complaints about their own procedures.

#### **3.4 Youth Justice Agency**

3.4.1 The Youth Justice Agency should provide victims with a copy of the report from the youth conferencing aspect - prior to presenting to the Court - to ensure that any inadequacies/ issues from a victim's viewpoint can be addressed in a timely manner.

3.4.2 Representatives of victims, especially parents, should have the opportunity of completing any satisfaction surveys commissioned by the YJA.

3.4.3 Ensure that information provided to a victim is factually correct as not all victims would challenge accuracy of same.

#### **3.5 DoJ / NICTS**

1. 3.5.1 Introduce a policy whereby Victims receive a transcript of any bail conditions set by the Court for offenders.

2. 3.5.2 Introduce a tariff of offences whereby a youth conference order would not be appropriate, rather than at the discretion of the magistrate.

#### **3.6 Victim Support**

3.6.1 If not already in place, VSNI and the PPS should consider a link-up in systems to enable VSNI to pro-actively contact victims or witnesses who are due to appear in court and ensure that any initial contact is followed up prior to the court hearing.

## **Conclusion**

Throughout the 2 years of the legal process of this particular case the victim has experienced varying levels of emotion.

The lack of communication in some areas exasperated these emotions and increased the impact upon the victim of the actual crime.

From the outset the victim and I were informed by Criminal Justice agencies that the GBH offence was 'very serious – fourth down from murder'.

The expectations of the victim were diminished when the Court reduced the number of hours of community service, despite the recommendations from the PSNI and the YJA.

My experience of the Criminal Justice system has led me to the following conclusions:

- Undue delay in bringing cases to Court.
- Lack of pro-active communication and at times receiving mis-information.
- Offenders being urged by legal teams not to plead guilty until the last minute and yet magistrates still provide a reduction in any sentencing.
- Victims are not treated equally regarding the provision of information.
- Offenders are provided with expert support and services to help prevent re-offending, yet the victim is left to deal with the impact of the crime on their own and for them to obtain help for themselves.
- Magistrates can, at their discretion, reduce or amend any plan provided by the YJA. I am of the opinion that this in effect (from a victim's viewpoint) reduces any positive aspect of youth conferencing. This may be viewed by a victim as a throwback to the days of pre-sentencing by the Probation Board, whereby the victim would have no input to the process.

Again, I welcome the opportunity, via this submission, to inform Members of my experiences of the Criminal Justice system throughout the past 2 years and I would be happy to discuss further with any Committee Member if required.

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# Law Society of Northern Ireland

## Introduction

The Law Society of Northern Ireland (the Society) is a professional body established by Royal Charter and invested with statutory functions primarily under the Solicitors (NI) Order 1976 as amended. The functions of the Society are to regulate responsibly and in the public interest the solicitors' profession in Northern Ireland and to represent solicitors' interests.

The Society represents over 2,400 solicitors working in some 540 firms, based in over 74 geographical locations throughout Northern Ireland. Members of the Society represent private clients in legal matters. This makes the Society well placed to comment on policy and law reform proposals.

In a devolved context, in which local politicians have responsibility for the development of justice policy and law reform, the Society is keen to ensure that its voice is heard. The solicitors' profession, which operates as the interface between the justice system and the general public, is uniquely placed to comment on the particular circumstances of the Northern Irish justice system and is well placed to assess the practical out workings of policy proposals.

## Executive Summary

### Introduction

- The solicitors' profession interact with victims and witnesses each and every day. In addition to interacting with victims through the court process solicitors often advise victims who are disappointed with the level of service they have received from criminal justice agencies.

### Compensation

- The Society's response notes the importance of ensuring victims are compensated for losses suffered and raises this as an issue which the Committee may wish to consider.

### Confidence

- The response considers the key factors required to be in place to ensure victims and witnesses can have confidence in the justice system.
- The complexity of the criminal process is discussed along with the need to ensure that victims are fully informed throughout the various stages of an investigation and prosecution.
- The impact of delay on victims and witnesses and the importance of tacking avoidable delay in the criminal justice system are highlighted.
- The response also refers to the importance of ensuring adequate provision for those who do not have English as their first language.

### Access to Justice

- The need to ensure a properly functioning justice system is emphasised.
- The importance of ensuring access to justice for victims is discussed, the position of the victims of domestic violence is provided as an example.

### Conclusion

- In the conclusion the Society refers to the importance of ensuring that due regard is given to the human rights of all.



- 1.1 The Society welcomes the opportunity to contribute to the Committee for Justice inquiry into the criminal justice services available to victims and witnesses of crime in Northern Ireland. Solicitors practising in the criminal field who act for both prosecution and defence interact with victims and witnesses on a daily basis. In addition, solicitors are often called upon to ensure that victims obtain proper redress and the Society seeks to ensure that victims have access to the advice and support needed to obtain that redress.
- 1.2 Solicitors regularly advise and assist members of the public who are seeking compensation for criminal injuries which they have suffered. Solicitors will also advise members of the public who are discontent with the level of service they have received from the criminal justice sector. One specific example is advising on a decision of the Public Prosecution Service not to prosecute an individual.
- 1.3 In this response the Society will provide comments on three broad areas of relevance to considering the position of victims and witnesses, namely compensation, confidence in the system and access to justice.

### **Compensating Victims**

- 2.1 It is important that the victims of violent crimes who have suffered demonstrable injuries are able to obtain some form of compensation for losses incurred. The criminologist Ferri said "... the State should take into account the rights of the victim, paying him an immediate satisfaction, especially when blood has been shed, looking to the offender to reimburse it for its expense."<sup>1</sup> The Justice Act (Northern Ireland) 2011, which the Committee considered in detail, makes provision for a levy on offenders to make some form of financial recompense for the crimes they have committed and injuries they have inflicted. Funds gathered through this levy are invested in the provision of services for victims. The quotation by Ferri states that the preferred option is for the offender him/herself to reimburse the victim. However in reality offenders rarely have sufficient means to reimburse victims. It therefore falls on society generally and the State to compensate victims for losses suffered.
- 2.2 The Criminal Injuries Compensation Scheme 2009 makes provision for the payment of compensation to victims of violence in Northern Ireland who have been physically and/or mentally injured or who are a dependant or relative of a deceased victim. The Scheme is administered by the Criminal Injuries Compensation Agency, an agency within the Department of Justice. The Scheme sets out the specific requirements for those seeking compensation. The level of compensation payable to an individual is laid down in the tariff.
- 2.3 Since 2002 those seeking compensation for criminal injuries have been unable to recover the costs of legal advice and representation provided to assist them in bringing their claim for compensation. Information and advice relating to the application process is provided by Victims Support.
- 2.4 The Committee may wish to consider whether the current arrangements are meeting the goal of ensuring that members of the public are able to access compensation for their injuries. The Society has some concern that the strict application of the eligibility criteria may be denying injured parties compensation in deserving cases. In particular, the requirement to inform the police of the incident giving rise to their injuries 'without delay' is believed to have resulted in a number of deserving applicants being denied compensation. The Committee may wish to gather information on the number of applications that are refused and the reasons for refusal. The Committee may also wish to consider whether there can generally be more done to ensure that offenders reimburse victims for losses suffered.

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1 See for further analysis Michael O'Connell 'Criminal Injuries Compensation: Revisiting the Rationale for State Funded Compensation for Crime Victims' Canberra June 2003 available at: <http://www.victimsupport.act.gov.au/res/File/O'Connell.pdf>

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### **Confidence**

- 3.1.1 It is of fundamental importance that both victims and witnesses have confidence in the criminal justice system. A wide variety of factors may lead to victims and witnesses losing confidence in the justice system. In this submission the Society will highlight two factors and will also refer to the needs of victims and witnesses without English as their first language.

### **Keeping Victims Informed**

- 3.2.1 The process of investigating and prosecuting a case can be prolonged and difficult for the victim to comprehend. At various stages throughout the process decisions are taken which have significant repercussions for how the offender is dealt with. The Society considers that it is important that victims are kept informed throughout the process of investigating and prosecuting a case of the prospect of success and the various outcomes that may occur.
- 3.2.2 The Committee will be aware that a minority of reported crimes result in the arrest and charge of an offender. If an offender is charged with an offence, it is possible that a formal prosecution will not be brought. This may be because the Public Prosecution Service (PPS) do not consider that there is sufficient evidence against the accused or it does not feel it is in the public interest to prosecute the accused. The PPS may also consider that the suspect should be dealt with by way of a diversionary measure. It is important that victims are informed of the various decisions that may be taken. Where decisions are taken the reasons should be explained to them.
- 3.2.3 There have been a number of high profile challenges to decisions of the PPS not to prosecute certain individuals. The Society notes that the PPS provides detailed information regarding how it goes about deciding whether to bring a prosecution or not. The Committee may wish to consider whether more can be done to ensure the victim and/or their family fully understand the decision making process.
- 3.2.4 Where an offender is formally prosecuted, he/she may be found not guilty and the victims should be informed of this possibility. He/she may either plead guilty or be found guilty, in which case he/she may receive a range of sentences, including a fine, custodial sentence or community sentence. It may be difficult for a victim to understand why a non-custodial sentence would be handed down by the court and it is important that victims are appropriately advised of the purposes of such sentences.
- 3.2.5 A victim may wish to provide a victim impact statement to the court to describe what affect the crime has had upon them. This can be presented to the judge before sentence is passed. The Society is concerned that there may be a lack of understanding around the relevance of a victim impact statement. In particular the Society is concerned that the ability to make a statement may lead to an expectation of a harsher sentence for the offender. It is important that victims wishing to make an impact statement are provided with appropriate guidance.

### **Avoidable Delay**

- 3.3.1 The Society has consistently highlighted the importance of ensuring that criminal prosecutions run efficiently, without undue delay. Preparing a case for trial can be a lengthy exercise which requires the cooperation of various different parties and agencies. Furthermore issues can arise once a trial commences that require investigation. Whilst the trial process can take some time, there is concern that delays which could be avoided are too common.
- 3.3.2 The Criminal Justice Inspectorate Report into Avoidable Delay referred to the impact delay can have upon both victims and witnesses;

*“To victims, delays can reduce the chances of a successful prosecution as events may become blurred to witnesses. For witnesses, lengthy investigations followed by numerous*

*adjournments diminish recollections, increase fears and frustrations with the system and make co-operation more unlikely in the future.”<sup>2</sup>*

The Report later refers to the impact of delay on victims obtaining closure. Delay undoubtedly adds significant stress and pressure onto victims.

- 3.3.3 The Society is keen to see delay tackled and advocates strongly for increased efficiency within the criminal justice system. While there may be a perception that delay is in the financial interests of a defence solicitor, the introduction of a standard fee regime for all criminal cases means quite the opposite is true.

#### **Victims and Witnesses without English as a first language**

- 3.4.1 Specific regard is required for victims and witnesses who do not have English as their first language. The Society has previously raised concerns regarding the availability of appropriately qualified interpreters in this jurisdiction who are able to assist victims and witnesses in understanding and participating in the court process. The Society recently responded to the NI Courts & Tribunals Service consultation on the provision of interpretation services. In its response, the Society highlighted the difficulties which solicitors, in particular defence solicitors, encounter when attempting to obtain the services of an interpreter.
- 3.4.2 Where a victim does not have English as their first language and has a limited understanding of English, it is important that there is adequate provision of interpretation services throughout the entire process, from reporting a crime to the provision of information and assistance when an offender is released from custody.
- 3.4.3 It is important that witnesses who do not have English as their first language are given appropriate support. This is essential to ensure the reliability of their evidence and the integrity of the trial process.

#### **Access to Justice**

- 4.1 Whilst the provision of legal aid is often viewed as simply being for the benefit of offenders, it in fact benefits victims and society generally. The provision of a well funded legal aid system guarantees that the defendant's solicitor is able to ensure the court is fully informed of the defendant's case and that all evidence is subject to rigorous scrutiny to test its reliability. This guards against occurrences of miscarriages of justice and ensures that victims can have confidence that the convicted person is the perpetrator.
- 4.2 Victims may themselves require access to legal aid. One example of this is a victim of domestic violence who may seek to obtain a Non-Molestation Order to protect against a violent partner. There are costs involved in obtaining such an order. The Society raised concerns with the Legal Services Commission that the financial eligibility requirements for those seeking a Non Molestation Order to access legal aid were inhibiting victims of domestic violence from obtaining such an Order and therefore placing such persons in danger. The Department of Justice has subsequently removed the upper capital and income limits for legal aid applications for those seeking to secure Non Molestation Orders in a Magistrate's Court. This has gone some way towards ensuring the victims of domestic violence are able to access justice.
- 4.3 Issues relating to the victims of domestic violence require specific consideration. The Society has highlighted this example to demonstrate the role of legal aid in assisting victims. Further examples include providing advice and representation to victims who are dissatisfied with the level of service they have received from a criminal justice agency or with a decision of an agency. The provision of legal aid to victims in need ensures that they are able to hold the criminal justice agencies to account where they have been let down.

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Available at: <http://www.cjini.org/CJNI/files/c0/c0243f51-1e73-47e8-a6fa-344d5f0063c5.PDF>

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**Conclusion**

- 5.1 The Society has identified three broad issues of relevance to the Committee's inquiry into victims and witnesses; compensating victims, ensuring victims and witnesses have confidence in the justice system and ensuring victims have access to justice.
- 5.2 As the Committee takes forward its review, particularly as it considers provisions to assist witnesses, it will wish to have regard for the right to a fair trial, as protected by Article 6 of the European Convention on Human Rights. The distress caused to a victim where a conviction is overturned is unquantifiable. It is therefore of fundamental importance that where a conviction is made that it is safe and the victim can rest in the knowledge that the person who injured them or their loved one has been brought to justice.

# Lord Chief Justice's Office



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7 November 2011

*Reas Ms Donnelly*

## COMMITTEE INQUIRY INTO THE CRIMINAL JUSTICE SERVICES AVAILABLE TO VICTIMS AND WITNESSES OF CRIME IN NORTHERN IRELAND

Thank you for your letter of 7<sup>th</sup> October 2011. Please treat this correspondence as the submission to the Inquiry on behalf of the Lord Chief Justice of Northern Ireland. We do not consider it necessary to give oral evidence to the Committee. The judiciary do not comment on policy matters, as this is a matter for Government, and we therefore confine our comments to operational issues.

### Importance of Victims and Witnesses to the Criminal Justice System

- 1.1 The Lord Chief Justice, as President of the Courts and head of the Judiciary in Northern Ireland recognises that witnesses are absolutely vital to the running of the courts. If witnesses are not willing to come to court to give evidence then the courts would not be able to function. It is important that they have confidence in the process.
- 1.2 The judiciary are committed to working with others in the justice system to ensure that when a victim or a witness comes to court to give evidence, their needs are considered and met. This is particularly important when dealing with young or vulnerable witnesses.

### Forthcoming CJINI Report on Victims and Witnesses

- 1.3 The forthcoming report on victims and witnesses prepared by Dr Maguire no doubt will highlight some areas for improvement. Members of the judiciary met with Inspectors from the Criminal Justice Inspectorate during the preparation of this report and gave their views on how the current system can

be improved . We understand that Witness Care Units may be recommended. If so, the judiciary would welcome this , as we consider that such a Unit would significantly improve the experience of witnesses through the system. It should also improve the level and consistency of contact which the PPS/PSNI have with a victim, and this will ensure that accurate information about the witnesses needs and their availability will be before the court at the earliest possible opportunity.

### **Practice Direction 3/2011**

- 1.4 Concern for victims and witnesses was one of the major drivers for change in relation to a new Practice Direction for the listing of trials in the Crown Court. The Lord Chief Justice issued Practice Direction 3/2011 (copy enclosed) entitled "Listing of trials, agreement of non-essential witnesses and obtaining of witness availability". This Practice Direction came into effect on 5<sup>th</sup> September 2011 for the Divisions of Belfast and Antrim (on a pilot basis).
- 1.5 The practice direction has changed the way in which cases are listed for trial in the Crown Court. This change was brought about because the judiciary became concerned that a significant number of witnesses were being contacted for their availability to attend a trial, and indeed trial dates were being fixed, before a defendant had entered a plea of guilty or not guilty. This resulted in unnecessary distress and upset to witnesses who were being contacted for their availability for a trial, when the defendant subsequently entered a plea of guilty at arraignment, and a trial was therefore not required. As a result of this, the Chief Justice, in co-operation with the PPS and the PSNI decided to issue a new practice direction which means witnesses are contacted about trial dates only if the defendant pleads not guilty.
- 1.6 The judiciary were also increasingly concerned about the high number of non-essential witnesses whose attendance was being requested at trial. The practice direction aims to reduce those non-essential witnesses having to come to court to give evidence by encouraging the defence and PPS to agree which witnesses are essential.
- 1.7 The stated aims of the practice direction are to:
  - ensure both the prosecution and the defence take adequate and prompt steps to check witness availability so as to ensure that avoidable adjournments, and hence avoidable delay, can be prevented;
  - improve arrangements for the notification of witnesses and checking witness availability in order to avoid witnesses being notified unnecessarily that they will be required to give evidence; and



- ensure the agreement of non-essential witnesses whose evidence may be read at trial.

1.8 The new practice direction has been in place since the beginning of this legal term, and we are monitoring the situation closely, we are hopeful that this method of listing trials will be rolled out throughout the other divisions in the New Year.

#### **Engagement with the DoJ, other agencies and victims groups**

1.9 The judiciary, although independent, do not act in isolation. The Lord Chief Justice and the judiciary engage with other criminal justice agencies regularly in relation to the needs of victims and witnesses, where this is appropriate:

- The Lord Chief Justice is represented by a senior official from his office on the 'Vulnerable Victims and Witnesses Working Group', which is chaired by the Department of Justice. This Group includes representatives from the PPS, the PSNI, Court Service, victims groups and Probation.
- Lord Justice Higgins is the Chairman of the Criminal Justice Issues Group, which has recently increased its membership to include a representative from Victim Support, to ensure that the views of victims and witnesses are represented on the Group.
- The Criminal Justice Issues Group is in the process of organising a workshop, which will be chaired by Lord Justice Higgins, and which will be focussed on practical ways to improve the experience of victims and witnesses.

#### **Other Initiatives**

1.10 Mr Justice Hart, the Chairman of the Criminal Court Judicial Committee recently attended a meeting of the Criminal Justice Delivery Group, which is chaired by the Minister of Justice. At this meeting, some initiatives which the Department is taking forward and which may be of assistance to witnesses were discussed.

1.11 The judiciary are supportive of reforming the committals process to remove the right to call witnesses at committal proceedings (known as a PI or a mixed committal). Calling witnesses at committal stage may be intimidating for the witness and is not considered a useful or necessary process. The judiciary do not see any operational advantage for the courts, or witnesses, in retaining PI's or mixed committals for any type of criminal proceedings.

We look forward to reading your final report on this very important issue and if we can be of any further assistance, please do not hesitate to contact me directly.

Yours sincerely  
Louise McAtamney

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**PRACTICE DIRECTION 3/2011**  
**IN THE CROWN COURT OF NORTHERN IRELAND**

**LISTING OF TRIALS, AGREEMENT OF NON-ESSENTIAL WITNESSES  
AND OBTAINING OF WITNESS AVAILABILITY**

**Introduction**

The purpose of this Practice Direction is to:

- ensure that both the prosecution and the defence take adequate and prompt steps to check witness availability so as to ensure that avoidable adjournments, and hence avoidable delay, can be prevented;
- improve arrangements for the notification of witnesses and checking witness availability in order to avoid witnesses being notified unnecessarily that they will be required to give evidence; and
- ensure the early agreement of non-essential witnesses whose evidence may be read at trial.

As part of this process Crown Court offices will no longer allocate stand-by or trial dates before arraignment.

**NOTE.** The target times set by (Practice Direction 5 of 2006) are unaffected.

1. This direction specifies the procedure to be followed for the early agreement of non-essential witnesses, the listing of trials and the obtaining of witness availability.
2. A defendant will be arraigned within 6 weeks of being sent for trial.
3. After a defendant has been sent for trial, and in advance of the arraignment date, the PPS will send to the defence a list of witnesses whose evidence it is suggested can be agreed.

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4. Where a defendant enters a not guilty plea at arraignment, the judge will determine whether or not the case is:
    - (a) suitable for an early trial; or
    - (b) not suitable for an early trial as there are issues which could require time to resolve (for example screening, PII, disclosure, expert witness issues).

**Cases suitable for early trial**

5. Where the case is suitable for early trial the judge will, at arraignment, fix the stand by and trial dates for a date within the next 12 weeks.
6. The judge will, at arraignment, ask the defence which witnesses, from the list which they have already received from the PPS or otherwise, can be agreed.
7. Following arraignment, both the PPS and the solicitor(s) for the defendant(s) will **immediately** notify all witnesses whose attendance is required at trial of the stand by and trial dates. The initial contact will be by telephone call or email on the day of arraignment, or the following working day at the latest. This initial contact will be followed up, for prosecution witnesses, by:
  - (a) in the case of civilian witnesses by a requirement to attend served by the PSNI;
  - (b) in the case of expert witnesses contact by the PPS or the PSNI as appropriate; or
  - (c) in the case of police witnesses by the PPS or PSNI as appropriate.
8. Where a witness does not confirm within five working days of the delivery of the requirement to attend, or in respect of defence witnesses within five working days of being notified, that they will attend court, an application for a witness summons will be made **immediately** by the party requiring the attendance of the witness(es).
9. Confirmation of attendance at court will be on the basis of receipt of a pro-forma reply or direct contact with the witness from civilian prosecution witnesses, or in the case of defence witnesses direct contact with the witness to confirm their attendance.
10. The judge will list the case for a review hearing 2 weeks after the arraignment where the stand by and trial dates will be confirmed or varied in light of the PPS and defence information about witness availability.

11. Where it becomes apparent that the date may have to be varied, both the prosecution and the defence will come to the review hearing with witness availability for a further 12 week period starting with the original trial date, or will have furnished the witness availability to the case progression officer in advance of the first review hearing if possible.

**Cases not suitable for early trial**

12. At arraignment, when a judge is determining whether or not a case is suitable for an early trial, the judge will determine this on the basis that the case involves issues which could require time to resolve, for example screening, PII, disclosure, expert witness issues etc.
13. At arraignment, the judge will ask the defence which witnesses, from the list which they have already received from the PPS or otherwise, can be agreed.
14. The judge will determine which issues require resolution, and get indicative timescales from the representatives when the issues are likely to be resolved.
15. The judge will then timetable a hearing for all issues to be resolved. This hearing should be within 4 - 6 weeks of arraignment. The parties should attend with the availability of the witnesses required for trial, and, if possible, the judge will fix the stand-by and trial dates at that hearing.
16. If it has not been possible to fix the stand by and trial dates at arraignment, then once the issues in the case have been resolved, or the judge is satisfied that they can be resolved by the trial, the judge will fix the stand by and trial dates for a date within the next 12 weeks.
17. Once the dates have been fixed the PPS and the solicitor(s) for the defendant(s) will **immediately** notify all witnesses whose attendance is required at trial of the stand by and trial dates. The initial contact will be by telephone call or email on the day on which the date is fixed, or the following working day at the latest. This initial contact will be followed up, for prosecution witnesses by:
  - (a) in the case of civilian witnesses by a requirement to attend served by the PSNI;
  - (b) in the case of expert witnesses contact by the PPS or the PSNI as appropriate; or
  - (c) in the case of police witnesses by the PPS or PSNI as appropriate.

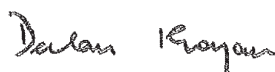
18. Where a witness does not confirm within five working days of the delivery of the requirement to attend, or in respect of defence witnesses within five working days of being notified, that they will attend court, an application for a witness summons will be made immediately by the party requiring the attendance of the witness(es).
19. Confirmation of attendance at court will be on the basis of receipt of a pro-forma reply or direct contact with civilian prosecution witnesses, or in the case of defence witnesses direct contact with the witness to confirm their attendance.
20. Where it becomes apparent that the date may have to be varied, both the prosecution and the defence will come back before the court with witness availability for a further 12 week period starting with the original trial date, or will have furnished the witness availability to the case progression officer in advance, if possible

**COMMENCEMENT and EXTENT**

This Practice Direction will come into effect on 5<sup>th</sup> September 2011.

This Practice Direction applies to the County Court Division of Belfast, and the County Court Division of Antrim.

Dated this 31<sup>st</sup> day of August 2011



The Right Honourable Sir Declan Morgan  
Lord Chief Justice of Northern Ireland



# NSPCC

## Introduction

The NSPCC is the lead child protection NGO in Northern Ireland providing a range of therapeutic and protection services for children and young people. These include the regional Young Witness Service, ChildLine, a 24 hour Child Protection HelpLine and a range of therapeutic and post abuse recovery services. NSPCC has statutory child protection powers under the Children (NI) Order 1995, is a member of Public Protection Arrangements NI and will be a core member of the Safeguarding Board for Northern Ireland. We are also in the process of developing new services in Northern Ireland which will include services for non-adjudicated offenders.

The NSPCC welcomes the opportunity to respond to this Victims and Witnesses' Inquiry which goes to the heart of the criminal justice system and the protection of children. Children who are victims or witnesses of abuse require a system which treats them with respect and is sensitive to their needs. A system which is insensitive runs the risk of causing further trauma to victims, impacting on their recovery and damaging their confidence in the Criminal Justice System (CJS) as a whole as well as their ability to access justice.

NSPCC has a well developed practice and evidence base which provides valuable insight into the experience of child victims within the criminal justice system in NI. Over the past few years we have conducted extensive research in this area and have a number of publications (some forthcoming) examining this issue in depth. This work includes:

- Detailed analysis of recorded crime statistics (Bunting, 2008; Bunting, forthcoming) exploring the characteristics of known sexual and violent crime against children, levels of case detection and variation in detection by case characteristics;
- A DoJ funded study undertaken with QUB examining the views and experiences of young witnesses who have given evidence in criminal proceedings in NI (Hayes et al., 2011);
- An evaluation of NSPCC's Live Link Service in Derry undertaken by NCB (McNamee, forthcoming);
- A paper drawing together the UK and NI evidence base on children's experiences of the CJS from the point of report through to prosecution (Bunting, forthcoming); and
- On-going research exploring the conduct of Achieving Best Evidence (ABE) interviews with child victims of sexual abuse in NI.

This material, together with practice expertise from our services, provides the basis of our submission to the Inquiry. This submission includes an overview of what we know about cases of sexual and physically violent crime coming to the attention of the CJS in NI and draws together a number of cross cutting themes, including:

- Attrition and delay;
- Adequate collation of information in relation to child victims;
- Support for child victims and witnesses attending court including provision of Livelink;
- The provision of therapeutic support; and
- Primary Prevention.

Where appropriate we make a number of recommendations to the Committee based on our research and experience.

## Overview of cases known to the CJS

The NSPCC has conducted a detailed analysis of sexual and physically violent crime (also known as 'offences against the person') against children recorded by the PSNI. This showed that children account for a significant proportion of victims (Bunting, forthcoming). Between 1 April 2008 and 31 March 2010:

- 63,325 sexual offences and offences against the person were recorded by the PSNI, 19% of which (11,927) involved children and young people aged 0–17 years as victims;
- Of the 11,927 violent offences involving child victims, 18% were sexual offences (n=2194) and 82% offences against the person (n=9733);
- Sexual offences against child victims represented 56% of all sexual crime;
- Offences against the person involving child victims represented 16% of all offences against the person.

While the majority of victims are older children, young children aged 0–9 years made up 22% of the victims of sexual crime and 12% of offences against the person. Girls were the predominant victims of sexual crime (85% v 15%) and boys the predominant victims of physically violent crime (60% v 40%).

Of these recorded crimes, only a minority were detected; 19% of sexual offences and 25% of offences against the person recorded in the 2008/10 time period had been detected by the end of September 2010. Detected crimes are effectively those which the PPS have deemed to have sufficient evidence to prosecute and which the police have resolved by means of a formal sanction.

Not all cases detected will actually proceed to court, and not all those which proceed to court will result in a conviction. Historically in NI a lack of integrated data systems has made it difficult to provide precise figures on attrition at the different CJS stages. Nevertheless, a recent CJINI inspection (CJINI, 2010b) has shown that just over half of reported rapes are sent by the police to the PPS for a decision; of this number around 25% proceed to trial and; of those cases that go to court, 57% result in a conviction. While not disaggregated by child and adult victims, the report provides **an overall conviction rate of just 7% for reported rapes in NI.**

Data relating to the characteristics of offenders is only recorded in detected crime. Analysis of detected sexual offences shows that approximately two thirds of offenders of both sexual and physically violent crime were aged 10-35 years and the majority were male. For both offence types the largest proportion of offenders were those known but not related to the victim, followed by strangers, with one in five offenders having a familial relationship with the victim.

Case characteristics impact on the detection of both sexual and violent crimes in different ways; cases involving sexual violence against victims aged 0–4 year olds were less likely to be detected; cases involving physically violent offences against 0–4 year olds more likely. There were also higher levels of detection for cases involving female victims in relation to physically violent offences. For both offence types there were significant differences between levels of detection across the police district the offence was reported in.

While 2 in 5 child victims of sexual offences reported the offence immediately, a significant proportion only came to the attention of the police weeks, months and even years after the offence occurred. A further 1 in 5 sexual offences were reported only when the child became an adult, many years, often decades after the offence. Almost twice as many adults reporting childhood sexual offences were male compared with immediate reporters and the majority of the offences reported by adults and children who delayed reporting more than one year related to offences which had happened when they very young. Reporting delay was also significantly more common in rural areas. Within detected cases, a majority of sexual

offences reported by children to police more than one year after occurrence or by adult survivors involved a familial relationship with the offender. Length of reporting delay had a significant impact on case outcomes with the lowest levels of detection (14%) occurring in cases of child sexual abuse which were reported when the victim was an adult.

## Attrition and Delay

It is clear from the NI statistics that there is substantial case attrition with only a minority of sexual offences and offences against the person deemed as having sufficient evidence to prosecute. The research literature indicates that a complex interplay of various factors contribute to attrition: insufficiency of evidence; public interest issues, particularly where social services is working with the family; the age and gender of the victim and their relationship to the offender; reporting delay; victim withdrawal from the process; denial/retraction of allegations; potential variations in practice depending where the case is reported and handling of the investigative interview; delays within the CJS and lack of contact and support from the point of report on (Bunting, 2008; Bunting, forthcoming; Gallagher & Pease, 2000; Davis et al. 1999; Feist et al., 2007; Metropolitan Police Service, 2007; Kelly, 2001; Kelly, Lovett & Regan, 2005; Robinson, 2008a & 2008b).

Recent inspections in NI (CJINI, 2006a & 2006b, 20010a & 2010b) have specifically pointed to delays, lack of support and lack of a proactive approach in cases of victim withdrawal as key factors contributing to attrition. Support for victims is essential even, and perhaps especially, in cases that do not proceed past the investigative or PPS decision making stage. While there are specific support mechanisms in place for young witnesses whose cases go to court, support for the vast majority of child victims whose cases do not proceed is much more ad hoc.

### **NSPCC recommends:**

*The introduction of advocates/supporters, similar to the Independent Sexual Violence Advisors in England, for all child victims of violent crime and their families as means of providing support from the point of report and sign posting to other services.*

*Further investigation into cases in which the victim withdraws or denies/retracts their allegation in order to better understand how 'avoidable attrition' might be minimised and victims better supported.*

*Implementation of recommendations of recent CJINI inspections into delay and sexual violence as a matter of urgency. In particular:*

- Investigation by PPS as to the reasons why the majority of rape cases are directed for no prosecution and take action to address any issues arising in conjunction with the PSNI*
- PSNI and PPS should develop a protocol for the investigation and prosecution of allegations of sexual offences which outlines responsibilities in relation to the updating of victims. Consideration should also be given to review and roll-out of the victim liaison pilot.'*

*Investigation of the conduct of ABE interviews in NI and their link with attrition.*

## Adequate Collation of Information in Relation to Child Victims

Currently official statistics are not able to identify the reasons why cases do not proceed and the differential impact this has on various groups of victims and/or offence types. Additionally, as recorded crime data only includes offender age, gender and relationship to the victim in detected cases, essential information on the nature and type of crime against children and young people remains unknown in the vast majority of cases. This information

is crucial for policy development, not just to identify levels of need but to identify changing patterns in the occurrence and reporting of victimisation and monitoring systemic response.

Victim surveys can produce a much broader picture of victimisation within a population, and the Northern Ireland Witness Survey provides a detailed overview of experiences of crime within NI. However, currently it does not routinely include under 18's, nor does it address violent or sexual offences. While the sensitivities involved in seeking the views of these groups cannot be underestimated, without this information our understanding of the experiences of some of the most vulnerable victims and witnesses in contact with the CJS is severely limited.

**NSPCC recommends:**

*Current information management systems should be developed to allow for the recording of alleged offender details in undetected cases to facilitate better understanding of the nature of crime against children.*

*Better use of current CJS information management systems is needed to inform key strategies and to monitor levels and patterns of crime against children as well as case outcomes.*

*Mechanisms to gather information from child victims about their experiences of the CJS. This should take particular account of vulnerable groups such as those who have been the victims of sexual crime, disabled victims and those who have been subject to violent crime perpetrated by parent/ caregivers.*

## Support for Child Victims/Witnesses Attending Court

Over the past two decades in NI there has been a raft of legislative and policy initiatives aimed at ensuring that child witnesses are able to give their best evidence and receive the support they need. This has brought about huge improvements for child victims and witnesses who are now able to access support through the Young Witness Service and avail of special measures which protect them from giving evidence in open court. Encouragingly, research funded by the Department of Justice specifically exploring the experience of young witnesses in NI (Hayes et al., 2011) has shown that a majority of young people gave evidence the way they wanted, primarily via TV link. Support from the Young Witness Service in the pre-trial period and on the day of the trial was viewed very positively by both young people and parents, who said that this had either made a lot of difference or was what had enabled them to give evidence in the first instance.

However, delays were commonplace with an average waiting time between reporting and trial of 18.1 months at Crown Courts, and 12.9 months at Magistrates and Youth Courts. Many young witnesses also reported a lack of pre-trial support and received little information about how their case was progressing. One of the biggest worries young witnesses had about going to court was seeing the defendant and/or their family; unfortunately many also reported this happening either in and around the court building or over the TV link. Being questioned in court was problematic for many young people who sometimes found it to be confusing and deeply distressing, and felt that there was little intervention from the Public Prosecutor. Post-trial support appeared to be particularly needed where the verdict had not been a positive one for the young witness. It was evident from both the interviews with young witnesses and the survey of YWS volunteers and practitioners that engagement with the criminal justice system and court processes was often perplexing and traumatizing for both witnesses and their wider family. Many parents felt they had been left to 'just get on with things' and commented on a lack of post-trial follow up and available support services.

**NSPCC recommends:**

*The recommendations of the Young Witness Study should be taken forward, in particular: giving consideration to the support needs of victims and families whose cases are heard at the lower courts; greater prioritisation of young witness cases by courts; and, in line with recent developments in England and Wales, giving consideration to the development of guidance and training initiatives for judicial and legal professionals in Northern Ireland in relation to the questioning and cross-examination of young witnesses and victims.*

## Live Link

Various studies across the UK and NI have shown increasingly common usage of special measures with young witnesses (Plotnikoff & Woolfson, 2007 & 2009, Hayes et al., 2011) with the majority giving evidence by TV link. Nonetheless, as discussed above, they continue to highlight problems with the way young witnesses are treated and supported. Often these problems are exacerbated by inadequate waiting facilities, no separate access to court buildings or secure access between young witness waiting areas, thus increasing the risk of encounters with the defendant or his/her supporters.

While evidence by remote link from a court at a different location can overcome the problems of witness intimidation or confrontation with the defendant at court, the waiting facilities for young witnesses at the host court may still be unsatisfactory. One solution to this problem is to locate remote TV links in child friendly support scheme premises. The NSPCC YWS has been piloting a Remote Live Link to the Londonderry (Bishop Street) Courthouse since January 2008. A recent independent evaluation of this pilot by the National Children's Bureau (NCB) (McNamee, forthcoming) found that the remote live link was viewed by the majority of legal personnel who participated in the evaluation as more advantageous than open court. It concluded that the advantages of the remote live link heavily outweigh the advantages of court based TV links by; providing a safe, secure and supportive environment to give evidence away from the courthouse; and ensuring that the witness will not encounter the defendant and his or her family for the duration of the trial. As such the report recommends that:

*The use of remote live link should be extended to all courts throughout Northern Ireland and the facilities in use by NSPCC YWS in Derry should be used as a model of good practice to help the implementation in other courts.*

## The Provision of Therapeutic Support

Practitioners and volunteers taking part in the Young Witness Study (Hayes et al., 2011) also stressed the emotional upset resulting from cross-examination and harsh questioning, the re-evocation of original trauma, and the turmoil caused by a 'not guilty' verdict as key issues for young witnesses post-trial. They also highlighted insufficient levels of support, in particular therapeutic support, for victims once the trial was over. Likewise, previous research mapping therapeutic provision for sexually abused children and young people across NI (Bunting et al., 2010) found that only 28 per cent were in receipt of a specialist service, with specific gaps being identified in both the Western HSCT and the Northern HSCT.

Therapeutic practitioners and managers who participated in the mapping research emphasised the importance of support from family members to the victim's recovery and their decision to proceed with the case, particularly in cases involving inter-familial abuse. They also identified a number of challenges to working therapeutically with child witnesses prior to their cases being heard in court, and were very much aware of the need to strike a balance between supporting the young person and not being seen to 'coach' them or taint their evidence. However, delays in cases proceeding to court continue to have a knock-on effect on therapeutic support by delaying the provision of interventions dealing specifically with the child's abuse experiences, potentially exacerbating their trauma.

**NSPCC recommends:**

*A regional approach to commissioning therapeutic services should be developed to ensure that all children and their families are able to avail of this as and when needed.*

## Primary Prevention

While recorded crime statistics highlight how common the reality of children's victimisation is, it is important to bear in mind that this is merely the tip of the iceberg and that many more incidents go unreported. The recent expansion of the British Crime Survey to include children aged 10-15 (Millard and Flatley, 2010) confirms this, revealing that 24% had been the victim of a personal crime in the previous year (i.e. a theft or assault which met the definition for being recorded as a crime in the UK). This figure dropped to 9% when incidents in school were excluded (these are highly unlikely to be recorded as crimes by police) and of these, only 18% were reported to police. While the focus of this submission is on those children who have become the victims of crime, the high levels of victimisation apparent in official statistics and research illustrate the urgent need to reduce children's exposure to such violence.

**NSPCC recommends:**

*The development of regional preventative strategies which promote greater awareness and understanding of sexual and physical violence amongst school age children and encourage early reporting.*



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# Northern Ireland Council for Ethnic Minorities

## SUMMARY

1. Hate crime have been drawn much attention in our society over the last decade. Academic, statutory, voluntary and community sector organisations and media are keen to look at the causes and impacts of hate crime. But most of them are failure to look at the experiences of victims of hate crime, in particular specialised advocacy and support services to the needs of victims of hate crime.
2. Hate crime is often a process rather than an event, and it can escalate in frequency and seriousness. It can have devastating effects on the quality of life of its victims. There can be the added trauma of knowing that the perpetrator's motivation is an impersonal group hatred, relating to some feature that the victim shares with others. This factor is greatest where the hatred is directed against a visible feature such as skin colour, physical disability or relating to core personal values such as religion or being lesbian, gay, bisexual or transgender. A crime that might normally have a minor impact becomes, with the hate element, an intimate and hurtful attack that can undermine the victim's quality of life and self esteem.
3. By its nature, hate crime is committed not merely against the immediate victim or their property but against the entire community or group he or she belongs to and eventually raises the feeling of insecurity against the other community or group. As a consequence, hate crimes revive old, or serve to create a new bias, prejudice and negative stereotyping of others. It also creates cycles of mistrust and tension within society.
4. There appears to be general agreement that hate crime in Northern Ireland is on the increase, and is subject to significant under-reporting. Statistics over recent years have shown a significant increase in the number of hate incidents being reported to the police. There is, however, anecdotal evidence to indicate that despite efforts to encourage reporting, there is still a significant level of under-reporting of these types of crimes due to the victims's unwillingness to come forward. Both the PSNI and community groups agreed that the current statistics of race hate incidents and race hate crime is only the tip of the iceberg.

5. There are a variety of reasons why BME people do not go to the police in these circumstances. These include no confidence with police officers,<sup>1</sup> poor experiences in the past with the police on reporting racial incidents and crimes and the perception that the police could not help or that the matters would not be treated seriously; also, fear of revenge and alienation from community groupings due to negative perceptions of the police by BME communities, in particular Irish Travellers.
6. The most striking thing about all of this primary data is the shocking incidence of racist violence across Northern Ireland. The data confirms that many minority ethnic people have experienced profound and repeated racist violence. While the statistics and media reporting have indicated that racist violence is 'growing', the NICEM statements make this visceral – it involves people being terrorised, people being spat on, people being burnt out of their homes and people being assaulted. The ongoing racist violence towards and harassment of minority ethnic children is particularly horrifying. In consequence many minority ethnic people are living in fear and some people are in fear of their lives. Many are being forced out of particular communities and some are being forced out of Northern Ireland completely.
7. We are also concerned at a synergy that appears to exist in Northern Ireland between Loyalism and racism. The Independent Monitoring Commission (IMC) acknowledged in numerous reports<sup>2</sup> that the UDA And UVF were 'targeting ethnic minorities'.<sup>3</sup> The PSNI and the Northern Ireland Affairs Committee have also acknowledged significant Loyalist paramilitary involvement in racist violence. Such links need to be tackled much more proactively by all agencies concerned.
8. Despite NICEM intensive support and advocacy work, including preparation of a statement before going to police interview and

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<sup>1</sup> Recommendation 9 of the Northern Ireland Affairs Committee, *ibid.* p.52

<sup>2</sup> tenth report (March 2006), Thirteen Report (January 2007), Fifteen Report (April 2007), Seventeen Report (November 2007), Twenty-Second Report (November 2009), Twenty-Third Report (May 2010), Twenty-Fifth Report (November 2010)

<sup>3</sup> The IMC Report which monitors threat assessment and normalisation, as well as on paramilitary activities analysis), can be downloaded in the following link: <http://www.independentmonitoringcommission.org/index.cfm>

accompany with the victim during the police interview, just less than half (49%) would not report her or his case to PSNI (August 2002 to March 2006). In our latest monitoring statistics (from April 2006 to August 2011) we have supported 366 victims, 191 victims would like to report her or his case to PSNI and 195 victims would not report her or his case to PSNI. Five years on there is still little change in terms of attitudes to report racial hate crime to PSNI despite a lot of efforts have been done at both institutional and community level.<sup>4</sup> Therefore the confidence building and the barriers to reporting should be part of the specialised services to address the needs of the victims of racial hate crime.

9. Due to the nature and experiences of victims of racial hate crime we examined the model of Women's Aid to support victims of domestic violence against women. We found that our situation, in terms of vulnerability, is identical as domestic violence which provide a specialised support services to women of domestic violence. Moreover the lack of statutory specialised support services for victims of racial and religious hate crime.
10. For this reason NICEM has played a pioneering role in bringing the victims of hate crime into the criminal justice process, as well as supporting their many and varied needs that arise as a result of the initial attack. Racial Hate Crime Support is an important process to tackle the increasing racial and religious prejudice, particularly when the process includes local community support networks.
11. The current support provides by the Victims Support NI could not deal with immediate risks assessment for the victims; complaints against public authorities, particularly PSNI; housing and accommodation issues which are critical for the victims; applications for criminal justice compensation scheme, preparation for statements with the victims and accompany victims in the police interviews, etc. These are the immediate needs of any victims of hate crime.
12. The Justice Committee should ensure that there are sufficient resources from the Department of Justice to address the needs,

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<sup>4</sup> Para. 4.11 Conclusions, The Next Stephen Lawrence, *ibid*, p.53 and third paragraph, Executive Summary, Hate Crimes in Northern Ireland, *ibid*, p. vii

barriers and confident building of the victims of racial and religious hate crime through specialised advocacy, advice and support services to the victims of hate crime from criminal justice agencies in Northern Ireland.

## 1 Introduction

1.1 NICEM is an independent non-governmental organisation working to promote a society free from all forms of racism and discrimination, where differences are recognised, respected and valued, and where human rights are guaranteed. As an umbrella organisation<sup>5</sup> we represent the interests of black and minority ethnic<sup>6</sup> (BME) communities in Northern Ireland.

1.2 We welcome the decision of the Committee for Justice to initiate an inquiry into the criminal justice services available to victims and witnesses of crime in Northern Ireland. In this submission we focus on a specific area of crime, namely the hate crime. Hate crime have been drawn much attention in our society over the last decade. Academic, statutory, voluntary and community sector organisations and media are keen to look at the causes and impacts of hate crime. But most of them are failure to look at the experiences of victims of hate crime, in particular specialised advocacy and support services to the needs of victims of hate crime. Therefore we are in particular welcome the Committee looking at this important aspect through this inquiry.

## 2. Nature of Hate Crime

2.1 Hate crime always have a broad impact and more devastating effect than other type of crimes. By their nature, it is committed not merely against the immediate victim or their property but against the entire community or group he or she belongs to and eventually raises the feeling of insecurity against the other community or group. As a consequence, hate crimes revive old, or serve to create a new bias, prejudice and negative stereotyping of others. It also creates cycles of mistrust and tension within society.

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<sup>5</sup> Currently we have 28 affiliated BME groups as full members. This composition is representative of the majority of BME communities in Northern Ireland.

<sup>6</sup> In this document "Black and Minority Ethnic Communities" or "Minority Ethnic Groups" or "Ethnic Minority" has an inclusive meaning to unite all minority communities. It refers to settled ethnic minorities (including Travellers, Roma and Gypsy), settled religious minorities, migrants (EU and non-EU), asylum seekers and refugees and people of other immigration status.



2.2 "Hate crime is often a process rather than an event, and it can escalate in frequency and seriousness. It can have devastating effects on the quality of life of its victims. There can be the added trauma of knowing that the perpetrator's motivation is an impersonal group hatred, relating to some feature that the victim shares with others. This factor is greatest where the hatred is directed against a visible feature such as skin colour, physical disability or relating to core personal values such as religion or being lesbian, gay, bisexual or transgender. A crime that might normally have a minor impact becomes, with the hate element, an intimate and hurtful attack that can undermine the victim's quality of life and self esteem."<sup>7</sup>

2.3 Despite all these effects little attention has been paid to the experiences and needs of the victims. It lacks a specialised statutory support service for victims of racial and religious hate crime (such as attacks on a mosque or on someone simply because he or she is a Muslim by faith). Moreover the reported hate incidents and crimes to PSNI are increasing over the last 10 years period<sup>8</sup>. The details of Racial Motivation<sup>9</sup> of incidents and crimes are as follows:

Total No. of Incidents <sup>10</sup>	Total No. of Crimes <sup>11</sup>	Clearance/Detection Rate <sup>12</sup>
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<sup>7</sup> para. 2.20, "Hate Crime in Northern Ireland: A thematic inspection of the management of hate crime by the criminal justice system in Northern Ireland, Criminal Justice Inspection Northern Ireland", Jan. 2007.

<sup>8</sup> The current PSNI hate crime statistics started from 2004-2005. The monitoring statistics between 1998-2002 is in Annex 1.

<sup>9</sup> **Hate Motivation Definitions: Racist**

"A racist incident is defined as any incident which is perceived to be racist by the victim or any other person. A racial group can be defined as a group of persons defined by reference to race, colour, nationality or ethnic or national origins (this includes UK National origins ie Scottish, English, Welsh and Irish) and references to a person's racial group refer to any racial group into which he/she falls. Racial group includes the Irish Traveller community."

<sup>10</sup> **Incidents:** Any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate (ACPO Definition). A full definition for each type of hate motivation is included at the end of this bulletin.

<sup>11</sup> **Recorded Crimes**

- Recorded crimes (sometimes referred to as notifiable offences) are those which are deemed to be indictable or triable-either-way. A full explanation of how recorded crime figures are produced is provided on the last page of this bulletin.
- In the same way as incidents are identified as having a hate motivation, a crime will be recorded as having the relevant hate motivation where the victim or any other person perceives it as such. Not all incidents will result in the recording of a crime.
- Crimes with hate motivations are classified according to the Home Office Counting Rules and form a subset of the overall recorded crime figures.

<sup>12</sup> Detections (or clearances as they may alternatively be known) are, broadly speaking, those crimes that

2004/05	813	634	15.9%
2005/06	936	746	20.5%
2006/07	1047	861	13.4%
2007/08	976	757	11.4%
2008/09	990	771	12.5%
2009/10	1038	712	16.2%
2010/11	842	531	13.4%

2.4 The former Chief Inspector of the Criminal Justice Inspectorate (CJINI), Mr. Kit Chivers, highlighted that “Statistics over recent years have shown a significant increase in the number of hate incidents being reported to the police. There is, however, anecdotal evidence to indicate that despite efforts to encourage reporting, there is still a significant level of under-reporting of these types of crimes due to the victims’s unwillingness to come forward.”<sup>13</sup>

2.5 The Northern Ireland Affairs Committee in its inquiry concluded: “There appears to be general agreement that hate crime in Northern Ireland is on the increase, and is subject to significant under-reporting.” (para. 22)<sup>14</sup> Both the PSNI and community groups agreed that the current statistics of race hate incidents and race hate crime is only the tip of the iceberg.

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have been ‘cleared up’ by the police. Crimes are counted as ‘detected or cleared’ in accordance with strict counting rules issued by the Home Office. They are counted on the basis of crimes rather than offenders. For example, if six offenders are involved in a robbery and are all arrested and charged, then this counts as one detection (i.e. the robbery is deemed to be ‘detected’). Alternatively if only one of the six is identified and charged while the other five remain unidentified and at large, this also means that the robbery can still be deemed as ‘detected’.

The following methods of detection involve a formal sanction:

- Charging or issuing a summons to an offender;
- Issuing a caution to the offender;
- Having the offence accepted for consideration in court;
- The offender is a juvenile who is dealt with by means of an informed warning, restorative caution or prosecutorial diversion.

In addition, for the most serious offence types (‘indictable only’ – see recorded crime paragraph above for explanation) a non sanction detection can be claimed if:

- The Public Prosecution Service (PPS) directs no prosecution; or
- The case cannot proceed because the offender has died.

<sup>13</sup> Hate Crimes in Northern Ireland: A thematic inspection of the management of hate crime by the criminal justice system in Northern Ireland, January 2007, p. v, Chief Inspector’s Forward.

<sup>14</sup> The Challenge of Diversity: Hate Crime in Northern Ireland, House of Commons, Northern Ireland Affairs Committee, Ninth Report of Session 2004-05, Volume I, HC 548-I

2.6 Without reporting of racial hate crime, the police and other criminal justice agencies can do little or nothing. "Worse still, the impression may persist that there is simply no problem to address, or the problem is a minor one. This plays into the hands of the perpetrators, encourages them in the belief that they can commit these crimes with impunity, and stokes the flames of prejudice and intra-community frustrations."<sup>15</sup>

2.7 There are a lot of unreported incidents and crimes. There are a variety of reasons why BME people do not go to the police in these circumstances. These include no confidence with police officers,<sup>16</sup> poor experiences in the past with the police on reporting racial incidents and crimes and the perception that the police could not help or that the matters would not be treated seriously; also, fear of revenge and alienation from community groupings due to negative perceptions of the police by BME communities, in particular Irish Travellers.<sup>17</sup> We enclosed 3 recent case studies in Annex 2 which assists you to understand this complex issues.<sup>18</sup>

2.8 For this reason NICEM has played a pioneering role in bringing the victims of hate crime into the criminal justice process, as well as supporting their many and varied needs that arise as a result of the initial attack. Racial Hate Crime Support is an important process to tackle the increasing racial and religious prejudice, particularly when the process includes local community support networks.

### **3. Experiences of victims of racist attacks**

3.1 In 2006 we commissioned Dr. Robbie McVeigh to conduct a research on the experiences of victims of racist hate crime that based on the statements of those victims who seek our support (just over 200 cases from August 2002 to March 2006). The Research Report "The Next Stephen Lawrence?: Racist Violence and Criminal Justice in Northern Ireland" was published in June 2006. In Chapter 4 of the Report, The Experience of Racist Violence by Minority Ethnic people in Northern Ireland provided an

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<sup>15</sup> para. 19, *ibid.*, p. 50

<sup>16</sup> Recommendation 9 of the Northern Ireland Affairs Committee, *ibid.* p.52

<sup>17</sup> para. 3.9, *ibid.*, p.17

<sup>18</sup> See also para. 4.9 Response of the Criminal Justice System to racist violence in Dr. Robbie McVeigh, *The Next Stephen Lawrence?: Racist Violence and Criminal Justice in Northern Ireland*, NICEM, 2006 p.44

analysis on the causes of racist attacks and the response from the criminal justice system.

3.2 “The most striking thing about all of this primary data is the shocking incidence of racist violence across Northern Ireland. The data confirms that many minority ethnic people have experienced profound and repeated racist violence. While the statistics and media reporting have indicated that racist violence is ‘growing’, the NICEM statements make this visceral – it involves people being terrorised, people being spat on, people being burnt out of their homes and people being assaulted. The ongoing racist violence towards and harassment of minority ethnic children is particularly horrifying. In consequence many minority ethnic people are living in fear and some people are in fear of their lives. Many are being forced out of particular communities and some are being forced out of Northern Ireland completely”<sup>19</sup>

3.3 We are also concerned at a synergy that appears to exist in Northern Ireland between Loyalism and racism. The Independent Monitoring Commission (IMC) acknowledged in numerous reports<sup>20</sup> that the UDA and UVF were ‘targeting ethnic minorities’.<sup>21</sup> The PSNI and the Northern Ireland Affairs Committee have also acknowledged significant Loyalist paramilitary involvement in racist violence. Such links need to be tackled much more proactively by all agencies concerned.

3.4 In Appnedix 6 of the Next Stephen Lawrence Report it provides details of monitoring data of NICEM’s case work. One of the monitoring data, regarding reported to police, is found alarming. Despite our intensive support and advocacy work, including preparation of a statement before going to police interview and accompany with the victim during the police interview, just less than half (49%) would not report her or his case to PSNI. In our latest monitoring statistics (from April 2006 to August 2011) we have supported 366 victims, 191 victims would like to report her or his

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<sup>19</sup> para. 4.11, *ibid.*, p.53.

<sup>20</sup> tenth report (March 2006), Thirteen Report (January 2007), Fifteen Report (April 2007), Seventeen Report (November 2007), Twenty-Second Report (November 2009), Twenty-Third Report (May 2010), Twenty-Fifth Report (November 2010)

<sup>21</sup> The IMC Report which monitors threat assessment and normalisation, as well as on paramilitary activities analysis), can be downloaded in the following link: <http://www.independentmonitoringcommission.org/index.cfm>

case to PSNI and 195 victims would not report her or his case to PSNI. Five years on there is still little change in terms of attitudes to report racial hate crime to PSNI despite a lot of efforts have been done at both institutional and community level.<sup>22</sup> Therefore the confidence building and the barriers to reporting should be part of the specialised services to address the needs of the victims of racial hate crime.

#### **4. Advocacy and Support to victims of Racial and Religious Hatred Crime in Northern Ireland**

4.1 Due to the nature and experiences of victims of racial hate crime we examined the model of Women's Aid to support victims of domestic violence against women. We found that our situation, in terms of vulnerability, is identical as domestic violence which provide a specialised support services to women of domestic violence.

4.2 Moreover the lack of statutory specialised support services for victims of racial and religious hate crime, NICEM got a small grant from Comic Relief to set up a project called "NICEM Racial Harassment and Advocacy" from 2002-2005 that mirrored domestic violence support services. The purpose of the Project was to address racial harassment through the provision of specialised advice, support, and advocacy for victims. We use the casework approach to provide intensive advice, support, remedial action, and referrals to specialist agencies with the following tasks:

1. Provide a safe place to enable victims to share their experiences (listening through support) and encourage them to report the case to the local police station;
2. Risk assessment and explore options in order to respond to the needs of the victims and her/his family;
3. Draw up action plans that are agreed with the victims;
4. Assist victims to prepare police statements and accompany victims to attend police interviews;
5. Liaise with police in providing follow-up support;

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<sup>22</sup> Para. 4.11 Conclusions, The Next Stephen Lawrence, *ibid*, p.53 and third paragraph, Executive Summary, Hate Crimes in Northern Ireland, *ibid*, p. vii



6. Assist victims to make applications to the NIHE under homelessness legislation or to reassess points under the Common Selection Scheme and also liaise with local Housing Association to identify suitable accommodation arrangements;
7. Make referrals to local and regional organisations if necessary, in particular specialist assistance such as criminal injuries compensation, referral to trauma centre, social workers and special needs for children; and
8. Assist victims to make complaints to the concerned agencies;

4.3 Due to lack of further funding and the upsurge of racist attacks in 2003 that triggered the Northern Ireland Affairs Committee Inquiry on Hate Crime in Northern Ireland, we approached the Community Safety Unit of the Northern Ireland Office in late 2004 and our work continued for another 18 month period during which an external evaluation was completed in March 2006. Based on the positive recommendations of the external evaluation report we submitted a formal proposal to the Community Safety Unit. Unfortunately the Unit did not have sufficient resources to continue our work. We also made representation to the then Security Minister in 2007 but without success. Instead resources were directed to Victim Support NI to act on racial hate crime by referral from PSNI.

4.4 We have no objection to resources going to Victim Support NI, but we do have concerns as the nature of racial and religious hate crime often deter the victims reporting such crime to (PSNI) as we highlight in paragraph 2.7 above. Moreover Victims Support NI could not deal with immediate risks assessment for the victims; complaints against public authorities, particularly PSNI; housing and accommodation issues which are critical for the victims; applications for criminal justice compensation scheme, preparation for statements with the victims and accompany victims in the police interviews, etc. These are the immediate needs of any victims of hate crime.

4.5 Despite not being funded NICEM has continued to provide an advice and advocacy service to victims of race hate incidents and crime through one post by using our own resources. We do recognise the need for specialised support services for victims of hate crime.



4.6 Since its inception the service has helped over 560 victims through comprehensive advice and advocacy. The range of support deals with verbal abuse to physical attack, however it is limited without proper funding and currently has only one worker to cover all of Northern Ireland and help local groups coordinate support in their areas.

4.7 The case studies included with this submission (Annex 2) are cases from this year alone. When the current case studies are compared to the cases that were presented in our research in 2006 "The Next Stephen Lawrence? Racist Violence and Criminal Justice in Northern Ireland" it is clear that there is still a need for this type of support. They also clearly illustrate the need for continuing work and improvements for access for victims.

## **5. Conclusions**

5.1 Hate crime have been drawn much attention in our society over the last decade. Academic, statutory, voluntary and community sector organisations and media are keen to look at the causes and impacts of hate crime. But most of them are failure to look at the experiences of victims of hate crime, in particular specialised advocacy and support services to the needs of victims of hate crime.

5.2 Hate crime is often a process rather than an event, and it can escalate in frequency and seriousness. It can have devastating effects on the quality of life of its victims. There can be the added trauma of knowing that the perpetrator's motivation is an impersonal group hatred, relating to some feature that the victim shares with others. This factor is greatest where the hatred is directed against a visible feature such as skin colour, physical disability or relating to core personal values such as religion or being lesbian, gay, bisexual or transgender. A crime that might normally have a minor impact becomes, with the hate element, an intimate and hurtful attack that can undermine the victim's quality of life and self esteem.

5.3 By its nature, hate crime is committed not merely against the immediate victim or their property but against the entire community or group he or she belongs to and eventually raises the feeling of insecurity against the other community or group. As a consequence, hate crimes revive old, or serve to create a new bias, prejudice and negative stereotyping of others. It also creates cycles of mistrust and tension within society.

5.4 There appears to be general agreement that hate crime in Northern Ireland is on the increase, and is subject to significant under-reporting. Statistics over recent years have shown a significant increase in the number of hate incidents being reported to the police. There is, however, anecdotal evidence to indicate that despite efforts to encourage reporting, there is still a significant level of under-reporting of these types of crimes due to the victims's unwillingness to come forward. Both the PSNI and community groups agreed that the current statistics of race hate incidents and race hate crime is only the tip of the iceberg.

5.5 There are a variety of reasons why BME people do not go to the police in these circumstances. These include no confidence with police officers,<sup>23</sup> poor experiences in the past with the police on reporting racial incidents and crimes and the perception that the police could not help or that the matters would not be treated seriously; also, fear of revenge and alienation from community groupings due to negative perceptions of the police by BME communities, in particular Irish Travellers.

5.6 The most striking thing about all of this primary data is the shocking incidence of racist violence across Northern Ireland. The data confirms that many minority ethnic people have experienced profound and repeated racist violence. While the statistics and media reporting have indicated that racist violence is 'growing', the NICEM statements make this visceral – it involves people being terrorised, people being spat on, people being burnt out of their homes and people being assaulted. The ongoing racist violence towards and harassment of minority ethnic children is particularly horrifying. In consequence many minority ethnic people are living in fear

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<sup>23</sup> Recommendation 9 of the Northern Ireland Affairs Committee, *ibid.* p.52

and some people are in fear of their lives. Many are being forced out of particular communities and some are being forced out of Northern Ireland completely.

5.7 We are also concerned at a synergy that appears to exist in Northern Ireland between Loyalism and racism. The Independent Monitoring Commission (IMC) acknowledged in numerous reports<sup>24</sup> that the UDA and UVF were 'targeting ethnic minorities'.<sup>25</sup> The PSNI and the Northern Ireland Affairs Committee have also acknowledged significant Loyalist paramilitary involvement in racist violence. Such links need to be tackled much more proactively by all agencies concerned.

5.8 Despite NICEM intensive support and advocacy work, including preparation of a statement before going to police interview and accompany with the victim during the police interview, just less than half (49%) would not report her or his case to PSNI (August 2002 to March 2006). In our latest monitoring statistics (from April 2006 to August 2011) we have supported 366 victims, 191 victims would like to report her or his case to PSNI and 195 victims would not report her or his case to PSNI. Five years on there is still little change in terms of attitudes to report racial hate crime to PSNI despite a lot of efforts have been done at both institutional and community level.<sup>26</sup> Therefore the confidence building and the barriers to reporting should be part of the specialised services to address the needs of the victims of racial hate crime.

5.9 Due to the nature and experiences of victims of racial hate crime we examined the model of Women's Aid to support victims of domestic violence against women. We found that our situation, in terms of vulnerability, is identical as domestic violence which provide a specialised

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<sup>24</sup> tenth report (March 2006), Thirteen Report (January 2007), Fifteen Report (April 2007), Seventeen Report (November 2007), Twenty-Second Report (November 2009), Twenty-Third Report (May 2010), Twenty-Fifth Report (November 2010)

<sup>25</sup> The IMC Report which monitors threat assessment and normalisation, as well as on paramilitary activities analysis), can be downloaded in the following link: <http://www.independentmonitoringcommission.org/index.cfm>

<sup>26</sup> Para. 4.11 Conclusions, The Next Stephen Lawrence, *ibid*, p.53 and third paragraph, Executive Summary, Hate Crimes in Northern Ireland, *ibid*, p. vii

support services to women of domestic violence. Moreover the lack of statutory specialised support services for victims of racial and religious hate crime.

5.10 For this reason NICEM has played a pioneering role in bringing the victims of hate crime into the criminal justice process, as well as supporting their many and varied needs that arise as a result of the initial attack. Racial Hate Crime Support is an important process to tackle the increasing racial and religious prejudice, particularly when the process includes local community support networks.

5.11 The current support provides by the Victims Support NI could not deal with immediate risks assessment for the victims; complaints against public authorities, particularly PSNI; housing and accommodation issues which are critical for the victims; applications for criminal justice compensation scheme, preparation for statements with the victims and accompany victims in the police interviews, etc. These are the immediate needs of any victims of hate crime.

5.12 The Justice Committee should ensure that there are sufficient resources from the Department of Justice to address the needs, barriers and confident building of the victims of racial and religious hate crime through specialised advocacy, advice and support services to the victims of hate crime from criminal justice agencies in Northern Ireland.

## ANNEX 1

### POLICE SERVICE OF NORTHERN IRELAND RACIAL INCIDENT STATISTICS

#### FINANCIAL YEAR

	1998/1999	1999/2000	2000/2001	2001/2002
<b>Indian</b>	51	89	81	65
<b>Chinese</b>	22	71	78	33
<b>White</b>	4	13	22	15
<b>Traveller</b>		11	6	12
<b>Black</b>	6	25	40	21
<b>Other</b>	10	28	33	39
<b>Total</b>	<b>93</b>	<b>237</b>	<b>260</b>	<b>185</b>

In 2002-2003 there is 226 racial incidents and in 2003-2004 there is 453 racial incidents<sup>27</sup>.

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<sup>27</sup>, para. 8 Racial incidents/crimes, The Challenge of Diversity: Hate Crime in NI, *ibid*, p. 7

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	1998/1999	1999/2000	2000/2001	2001/2002
<b>Verbal Abuse/Threat</b>	32	67	75	48
<b>Written Material</b>	1	4	1	4
<b>Graffiti</b>	5	7	7	2
<b>Physical Assault</b>	15	54	58	39
<b>Attack On Home</b>	13	53	49	38
<b>Attack On Property</b>	20	37	44	33
<b>Other</b>	7	15	26	21
<b>Total</b>	<b>93</b>	<b>237</b>	<b>260</b>	<b>185</b>



## **ANNEX 2**

### **CASE STUDIES**

#### **Case Study B**

B is a EU national who has been living in Northern Ireland since 2004. In 2010 he and his wife were placed in a Housing Executive property in North Belfast.

The ground floor apartment quickly became a target for harassment and intimidation. B's car was damaged and the aerial was broken off. He and his wife were subject to racist verbal abuse when they walked in their neighbourhood, dead pigeons and other rubbish was put through their open windows, and their buzzer was rung at all hours of the day and night. B and his wife were both suffering from anxiety and insomnia. B also had a serious medical condition that was exasperated by the constant harassment.

B called the police every time an incident occurred. The police would show up to the scene and the perpetrators would run away. This cycle continued for 8 months until B called us desperate for help and support. When we got involved we called a meeting with all the relevant statutory and support agencies including the PSNI and the city council support officers. The meeting allowed the agencies to coordinate a response and we supported B through reporting in the meeting how the harassment had affected him and his wife.

After this we helped B compile a comprehensive log of all the incidents that was submitted to the police. This led to B getting the sufficient amount of points that will allow him to move to a different property.

### **Case Study C**

C is a Black EU national who has been living in Northern Ireland since 2010. C had only been living in Northern Ireland for two months when he was attacked.

C was walking home with friends when a group of four men started calling them racist names. C and his friends tried to ignore the men but the men began coming after them. They caught C and began punching and kicking him. C's friends were able to get him free and they ran to a nearby friend's house.

C was traumatized. He had not been in Northern Ireland very long and did not know what to do. C's friends told him not to report the incident to the police, as this would make matters worse. They told C that other people in the community would come after him if they saw him talking to the police. C's cousin returned from holiday a week later and told him he needed to go to the police to report the attack.

C was referred to Victim Support and they helped him make an application for compensation. The application was unsuccessful because C delayed in reporting to the police.

C and his cousin came to us after this and asked us to take the case as they felt that because we were a Black and Ethnic minority organisation it

gave us a better insight into why C delayed in reporting to the police and we would be able to articulate this on the compensation appeal.

### **Case Study E**

E is a non-EU refugee. He has been in Northern Ireland since 1998. He was living in the Belfast area and was happy with where he was settled.

After being involved in a minor car collision he began receiving threatening texts, which threatened his life and made derogatory comments about his Muslim faith. E recognised the number as belonging to the person he had been involved in the collision with. As this meant the person had his personal details including his address E was fearful to stay in his home.

E reported the texts to police and his fear that the person who sent them knew who he was and would be able to come to his home. E was given intimidation points by the Housing Executive and moved due to the extreme nature of the texts and the fact that the perpetrator knew where E lived.

E came to us six months after the incident as he still had not heard from the police about the investigation and while he was living in a different area he was still fearful and anxious.

We contacted the police and after several phone calls and emails and contacting other officers we had worked with previously we were able to track down the investigating officer. In response to our enquiries we received a letter from the investigating officer that explained that the police

forwarded the case to the PPS. However, because the perpetrator had been in a different UK region when the texts were sent there had been jurisdiction issues. The letter explained that the file had been passed back and forth until the statute of limitations for the crime had run out. Therefore the case had been closed.

E was extremely frustrated and upset about the way his case had been dealt with, not only had he not been informed that the case was closed he had been kept up to date with the developments in the case. We then helped E take a complaint to the Police Ombudsman.

# Northern Ireland Policing Board

## MEMORANDUM

**FROM:** THE NORTHERN IRELAND POLICING BOARD

**TO:** THE NORTHERN IRELAND ASSEMBLY COMMITTEE FOR JUSTICE

**SUBJECT:** RESPONSE TO THE ENQUIRY INTO THE CRIMINAL JUSTICE SERVICES AVAILABLE TO VICTIMS AND WITNESSES OF CRIME IN NORTHERN IRELAND

**DATE:** 31 OCTOBER 2011

### Introduction

1. Article 1 of the European Convention on Human Rights (ECHR) requires States to *secure* the Convention rights and freedoms for everyone in their jurisdiction: not just refrain from infringing them. The protection of human rights therefore lies at the heart of the ECHR and the police have an important role in upholding and vindicating these rights. In order to act compatibly with the Human Rights Act 1998, which gives effect to the rights and freedoms contained within the ECHR, the PSNI must protect all members of the community and provide an equal service to all. If a member of the community is vulnerable that means adopting special measures to ensure that access to the service is actually equal.
2. After a criminal offence has been committed, the victim's first contact with the criminal justice system is normally with the police. That contact will likely continue throughout the judicial process. The police response therefore to the report of a criminal offence will have a direct and often decisive impact on the victim's attitude to the criminal justice system. It is therefore critical that the police treat all victims with compassion and respect for their dignity. They must ensure that the victim feels that the offence is being considered properly and is being taken seriously. Victims often feel a sense of frustration, fear and insecurity but police officers can make a real difference to a victim's experience as they progress through the system. Respect, compassion and understanding for victims should be the hallmark of police conduct.

TRIM: 174647

## Specific Areas of Concern in Relation to Victims of Crime

### 3. Victims of Domestic Abuse (thematic review published March 2009, update report May 2011):

**3a. Specialist police officers:** Domestic abuse officers are specialist police officers located within PSNI Public Protection Units (PPUs) who are dedicated to dealing with domestic abuse cases and assisting victims throughout the criminal justice process. It was recommended in the thematic review that PSNI consider the number and deployment of domestic abuse officers, with a view to ensuring that a specialist officer is available for every shift. In some Districts, domestic abuse officers now work outside Monday to Friday, 9am – 5pm, but not in every District. CJINI reinforced the Policing Board's recommendations in its December 2010 report, commenting that "it would be sensible if this weekend cover rota operated consistently across the PSNI in order that specialist officers were available for follow-up incidents which occurred on Friday and Saturday nights, as this is the time when domestic incidents are most likely to occur."<sup>1</sup>

**3b.** In May 2011, when issuing an update report on the thematic review, the Policing Board's Human Rights and Professional Standards Committee was supportive of a model of practice operating in G District whereby there will always be a domestic abuse officer working Monday to Friday, 8am – 10pm, and two officers working on a Saturday and Sunday, one from 8am – 4pm and one from 9am – 5pm. The officers are based in Strand Road but are available to provide a service throughout the District. There will also always be a domestic abuse officer in the District available on call to response officers outside of these hours. The Committee believes this to be a pragmatic approach to the staffing of domestic abuse officers as it ensures that there is a specialist officer on call during the peak times of commission of domestic abuse (i.e. Friday and Saturday nights). It also means a domestic abuse officer can visit the victim and take statements from the parties involved the same or following day, rather than waiting until Monday morning.

**3c. Minority ethnic victims:** The barriers faced by victims when it comes to reporting domestic abuse are compounded where the victim's language is not English and/or he or she is unfamiliar with their local surroundings or community. The thematic review noted that unless and until there is an abundant supply of interpreters to meet the needs of victims, minority ethnic victims will not receive the high standard of service they are entitled to expect. All information on support and referral services must be contained in leaflets translated into the various languages spoken in Northern Ireland.

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<sup>1</sup> *Domestic Violence and Abuse*, Criminal Justice Inspection Northern Ireland (CJINI), October 2010, para. 2.6.



**3d.** Further to a recommendation in the thematic review, the PSNI Policy Directive, *Police Response to Domestic Incidents*, was revised and reissued in December 2010. It now incorporates guidance relating to victims with particular needs, including those for minority ethnic victims, older victims, disabled victims, young victims, lesbian, gay, bisexual (LGB) victims and Traveller victims.

**3e.** The PSNI domestic abuse *Infocarte*, *Time and time and time again*, has been translated into eight minority languages, specifically: Czech, Lithuanian, Polish, Ulster Scot, Russian, Irish, Mandarin and Portuguese. Other literature has also been translated into minority languages.

**3f. Statistics:** A lack of disaggregated data means it is difficult to give a true picture of the nature and extent of domestic abuse across Northern Ireland. The statistics compiled by the PSNI, and published annually in the PSNI Annual Statistical Report (which is available to download through the PSNI website), give the number of reported incidents and recorded offences with a domestic motivation. The statistics in the Annual Statistical Report are broken down according to the gender of the victim but do not record the gender of the perpetrator or the relationship of the victim to the perpetrator. Unless and until we know the statistics according both to gender and to relationship it is impossible to fully assess the scale and the true nature of the problem. It was therefore recommended in the thematic review that PSNI should record, for every reported incident, the gender of both victim and perpetrator, the relationship of the victim to the perpetrator, the ethnicity of the victim and perpetrator and whether the victim is an adult or child. This approach may also assist the PSNI decision making process with respect to the allocation of resources to policing priorities.

**3g.** PSNI has produced that information in respect of victims of recorded crimes (but not incidents only) and in respect of offenders of detected crimes for 2009/2010 and 2010/2011. The Policing Board has distributed that information amongst stakeholders. A question was raised by a stakeholder at a recent public meeting of the Board on domestic abuse (1 September 2011), and was raised by stakeholders throughout the thematic process, as to why statistics do not reflect cases from arrest to sentencing. Whilst appreciating that different recording systems mean that police, PPS and Court Service statistics cannot always be aligned, stakeholders would welcome more joined up data in respect of domestic abuse.

**3h. MARAC:** A key development since publication of the thematic review has been the roll out of Multi-Agency Risk Assessment Conferences (MARACs) across Northern Ireland. In May 2011 the Policing Board's Human Rights and Professional Standards Committee published an update report on its thematic review. In the update report the Committee

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noted the work that PSNI has undertaken to ensure that MARAC is a success e.g. training, policy review and involvement in over 1,500 high risk domestic abuse cases. To support and represent victims in the MARAC process, it is important that funding is secured for a sufficient number of Independent Domestic Violence Advisors (IDVAs).

**4. Children and young people who are victims of crime** (thematic review published January 2011):

**4a.** Child victims of abuse are at a much higher risk of offending. Very often, patterns of offending by a child indicates an underlying problem. It is important that children are not compartmentalised as either 'offenders' or 'victims'. Where a child is displaying signs of offending behaviour, early intervention initiatives such as Child Intervention Panels (CIPs), can assist with both removing a child from harm and supporting them to move away from the risk of offending. In order for CIPs to be effective, all types of agencies need to be involved and remain committed, e.g. health, education, social services – not just criminal justice agencies.

**4b.** Paramilitary style punishment shootings and attacks are a very real problem for some young people living in Northern Ireland. Between 1 April 2010 and 30 September 2011, there have been 118 casualties of paramilitary style assaults and shootings *that are known to the PSNI*. Anecdotal evidence collected during the thematic review would suggest that people are reluctant to report this type of crime to the police but that these sorts of attacks against young people are commonplace in some areas: statistics therefore do not give the full picture.

**5. Lesbian, Gay, Bisexual and Transgender (LGB&T) victims** (thematic review not yet published): LGB&T victims of crime are being considered within the context of the Policing Board's ongoing thematic review of policing with, and for, people who are LGB&T.

**5a.** Confidentiality, or fear that confidentiality will be breached, is a big issue and is a barrier to LGB&T victims reporting crimes and cooperating with any subsequent prosecution. There is also a worry that if a crime is reported, the police or other criminal justice agencies will not believe the victim/take the crime seriously and that they may treat the victim inappropriately (for example, by purposely referring to a trans person by the wrong pronoun). For some LGB&T victims, this worry is based upon experience, for others it is purely based upon perception. The thematic is considering steps taken by PSNI to improve reporting mechanisms, police response and to improve engagement between the

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police and LGB&T community in order to challenge negative perceptions. However, it is clearly an issue that needs looked at across the whole criminal justice system – what are the courts and PPS doing, what training have they received etc.? The Criminal Justice (No.2) (Northern Ireland) Order 2004 has not led to many aggravated sentences for hate motivated crimes – how has this impacted upon the reporting of hate crime? The 2004 Order refers to race, religion, sexual orientation or disability – what about gender identity? These are issues that are outside the Policing Board's remit, but which the DOJ could consider as part of its review of victims and witnesses of crime.

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# Police Service of Northern Ireland

This submission is written by members Criminal Justice Department of the Police Service of Northern Ireland. It is based on the views collected from experienced staff across the department, and is an official response on behalf of the Police Service.

## Review the effectiveness of the current approach and services provided by the criminal justice agencies to victims & witnesses of crime

- (1) The Police Service of Northern Ireland is committed to ensuring it provides a high standard of service to the victims and witnesses of crime. This can be evidenced in our recently introduced 'Policing Commitments' which outline the minimum standard of service members of the public, including victims of crime, can expect from our officers and staff. This includes:
- We will treat you fairly and make sure you can use our services at a time that is reasonably suitable for you. When we speak to you we will always give you an opportunity to discuss your concerns.
  - If you have been a victim of crime we will update you within 10 days on what we are doing to investigate the crime. If it is appropriate we will give you further updates (and agree with you when these updates will be).
  - If you phone 999 we will try to answer your call within 10 seconds. We will let you know when we expect to arrive at the scene of an emergency. We will answer non emergency calls promptly. If there is not an emergency and we need to come out to you, or if you are calling about an agreed community priority in your area, we will aim to be with you within 60 minutes.
  - If appropriate we will make an appointment at a time that suits you to discuss your problem or any other issues that you are concerned about. We will also give you advice on how to prevent the problem from happening again. If we cannot deal with the problem, we will try and put you in touch with someone who can.
- (2) PSNI is continually working to improve communications with victims with a view to ensuring such contact is consistent, both in terms of quality of information and frequency of contact. For instance, PSNI has during the past year instigated a programme of change designed to improve the management of 'Victim Updates'. This programme which is due to be completed on 15 November will improve the consistency and efficiency of the victim update process and includes the implementation of computer technology whereby victim updates are 'flagged' to officers at the following intervals:
- 10 days** – This will enable the officer to tell the victim what they have done to date e.g. further inquiries, arrests, or news of any other progress in their case.
- 30 days** – By now the officer should have completed the initial investigation. If possible the officer will try to close the victim contact if they are unlikely to make any further progress on the case. This contact is also an opportunity to ask the victim if they have heard anything else, how they are keeping and if there is anything else PSNI can do to help.
- 75 days** – By now the officer may have completed contact with the victim. If not this reminder assumes most prosecution cases will have been submitted to the PPS and triggers officers to update the victim that their case has been submitted for consideration.
- These flags are robustly managed and the officer is expected to update the IT system with the fact that the victim has been updated, including a brief outline of the update and any relevant information.

Compliance with the victim update process is robustly monitored through the IT system which automatically highlights outstanding updates. Quality is also monitored through supervisor dip sampling and the monthly 'Quality of Service' questionnaires.

In improving this victim update process PSNI has also taken account of feedback from our recent 'Citizen Focus workshops' which indicated PSNI could improve their management of victim expectations – including ensuring victims are informed when a case cannot be 'taken any further'. Historically our failures in this area have led some victims to mistakenly believe their case is still under investigation, building false expectations and frustration and a sense that police have forgotten about the victim. The new victim update process ensures victims are suitably updated even when a case is not being taken any further and our experience to date is showing such updates are already positively influencing the victims experience – in essence letting them know they haven't been forgotten, promoting ongoing engagement with, and confidence in the PSNI.

(3) Alongside the above newly implemented system PSNI continue to

- Ensure victims are aware of the support services available to them; this includes providing all victims with a copy of the 'Information for Victims of Crime' leaflet and, (with the agreement of the victim) passing their details to Victim Support for Northern Ireland, with whom PSNI also continues to work in partnership.
- The use of Family Liaison Officers in cases of murder, manslaughter, road death and other serious crime continues. Family Liaison Officers are specially trained officers whose main role is the day to day management of the interaction with the family and close liaison with the Senior Investigating Officer thereby ensuring families are treated appropriately, professionally and with respect for their needs. There are in excess of 100 specially trained family liaison officers in PSNI.
- Ensure cases of child abuse or rape are investigated by a specialist team and has now ensured that each individual District has its own specially trained team – these teams are over and above the Serious Crime Rape Crime Unit.
- Ensure early identification of vulnerable and/or intimidated victims & witnesses, identifying their needs, and working closely with the Public Prosecution Service to ensure they are supported through the justice process.
- Work in partnership with the Compensation Agency to ensure applications for compensation are processed as expeditiously as possible.

Customer service is at the heart of our strategy. Projects such as improving contact, victim care, criminal justice streamlining and providing IT solutions are all intended to improve the victim and witness experience

(4) Delay has been identified as a major issue for victims of crime and PSNI has invested significant efforts to reducing delay for such victims. This has included a programme of internal reform aimed at focusing the right people to the right place at the right time doing the right thing. This has resulted in over 600 officers being returned to frontline policing and the rationalisation of several back office functions aimed at reducing bureaucracy and allowing officers more time to focus on service delivery at the frontline. For instance, there has been a reduction in the number of forms officers are required to complete when dealing with victims providing the opportunity to deliver a more personalised service, tailored to the needs of victims rather than feeding the bureaucracy of the system.

(5) As a result of ongoing consultation PSNI has, in partnership with the Public Prosecution Service, implemented a number of initiatives aimed at resolving low level crime at the earliest opportunity to the satisfaction of the victim without disproportionately affecting the alleged offender. This has included the introduction of:

- The Police Discretion Scheme which allows officers to use their discretion to resolve specified low level crime without recourse to the formal justice system. This scheme

directly addresses the criticism that victims felt 'disempowered' by the criminal justice system, that they believed justice was something which 'happened to them'. The scheme focuses on addressing the specific needs of the victim for instance, where a window is broken and an offender has been identified, discretion would, with the agreement of both victim and offender, allow the officer to arrange for the offender to make good the damage and would oversee that same is completed. The offence would be recorded against the offender to inform decision making as to future criminal justice disposals, should the offender go on to commit further offences, this does not however constitute a criminal record.

The Discretionary Scheme was introduced during the course of the financial year 2010-11 and to date there have been 5025 discretionary disposals which have involved a victim.

The scheme allows a quick and reasonable resolution to minor crimes and to date has a victim satisfaction rate (monitored by survey) of 95%.

- Telephone diversion – there are almost 60 thousand cases referred to the Public Prosecution Service each year and approximately 10 thousand of these cases result in a caution, informed warning or referral to the young driver scheme. Often it is apparent from the outset of such cases that they will be suitable for diversionary disposal, despite this however a full case file was required to be completed and submitted through the formal criminal justice system. This process often had a negative impact on victims as despite the fact it was to be minor diversionary disposal it appeared to suffer from disproportionate delay (some taking more than 6 months).

During the financial year 2010-11 PSNI and PPS jointly introduced a scheme aimed at reducing delay in diversion cases, whereby an officer can telephone a prosecutor for a diversionary decision and have the diversion administered immediately following this decision.

This scheme has successfully dealt with approximately 28% of all diversionary decisions and has dramatically reduced delay in such cases. For instance, one case resulted in the matter being resolved within a matter of hours.

- Both Discretion and Telephone Cautions are designed to remove low level crimes from the formal criminal justice system, freeing officers and prosecutors time to focus on the more serious cases whilst ensuring that victims in all cases continue to receive a high level of service appropriately tailored to their individual needs.

Identify the key issues impacting on the experiences of victims and witnesses of crime of the criminal justice system and any gaps in the services provided

- (6) One of our key commitments is to ensure that we treat members of the public with dignity and respect. Monthly independent surveys are conducted with victims of crime and anti social behaviour. While the results of these surveys are not published externally they are a relevant management tool.
- (7) We continue to work closely with Victim Support Northern Ireland. In addition to meetings held at management level, we provide details of points of contact within each police District and Neighbourhood Policing Teams. On average PSNI refers approximately 23 000 victims of crime to our colleagues in Victim Support per year. We are dedicated to this ongoing work and cooperation with Victim Support. To enhance the provision of more timely and detailed information of victims we are in discussion to develop improvements in IT processes and the drafting of a Information Sharing Agreement between both organisations is nearing conclusion.
- (8) PSNI recognises the negative impact avoidable delay within the justice system can have on victims and is committed to continuing to work with partner agencies to address this issue.

During the financial year 2010-11 PSNI focused attention towards reducing the number of 'low level' cases entering the formal justice system and streamlining diversionary cases,



with a view to creating capacity to improve our focus and attention on serious crime cases and those cases which require to be presented before a court. During this financial year we continue to work with partner agencies and this work includes:

- Working to reduce avoidable delay in summons cases which take twice as long to be disposed in court as charge cases. This work has included, the scoping of practices in other jurisdictions, lobbying for the change in the summons process including lobby for a more cost effective approach to the management of summonses (civilian summons servers) and work to deal with as many cases as possible by way of charge.
- PSNI has also worked in partnership with the Public Prosecution Service to deliver a more streamlined file and process for charge cases which can be disposed within the Magistrates Court. This work is designed to ensure that charging is consistent across PSNI, that the charges are proffered are the most appropriate and that the case is sufficiently prepared and ready to inform a plea at first hearing (in Cumbria the adoption of this file process resulted in a 30% increase in early guilty pleas).

Whilst we are hopeful of the success of this scheme we are aware that more significant cultural and architectural change will be necessary if we are to produce a truly visible cultural change in the criminal justice system. For instance:

- Reform of the legal aid system (Scotland introduced a fixed flat fee whether the defendant pleaded guilty or not, this increased by 400% the number of early guilty plea's without impacting the overall number of guilty plea's);
- the introduction of a statutory incentivisation scheme to encourage early guilty plea's;
- The reform of Committal Proceedings.

(9) PSNI remains focused on ensuring we investigate, and, where appropriate, submit investigation files to the PPS within the agreed timelines. We also continue to work with our Criminal Justice partners in the development and delivery of a 'Causeway' based management information system which will allow us to review and monitor our performance against Criminal Justice System case submission targets and to collegiately improve performance management across the system.

(10) We continue to work with the Department of Justice in regard to the use of registered intermediaries to support the needs of victims and witnesses and have appointed a service 'Intermediary Champion' to ensure this work is taken forward and appropriately prioritised.

Identify and analyse alternative approaches and models of good practice in other jurisdictions in terms of policy interventions and programmes

(11) PSNI recognises the negative impact that inconsistencies in service provision across the justice system can have on victims and witnesses for instance the differences in management of summons between for Crown and Magistrate Court Cases, inconsistencies in communications both in terms of style and message across the agencies and regions. To this end, PSNI is working in partnership with other justice agencies to ensure that lines of responsibility for the management of victims and witnesses at each stage of the court process are clearly understood and to ensure that communications at each stage are consistent. As part of this work we will, in partnership with PPS, develop new interagency Service Level Agreements -which clearly outline the roles of both PSNI and PPS and work to ensure that written communications carry consistent messages.

(12) PSNI is committed to working to achieve a 'joined up' approach to the management of victims and witnesses across the justice agencies. PSNI has invested significant resource and effort into scoping what has been identified as sound practice in England and Wales – the establishment of Victim and Witness Care Units (VWCU). This has included a visit to a VWCU in West Yorkshire by senior staff from PSNI and PPS. As a result of this scoping work PSNI strongly advocates the establishment of Victim and Witness Care Units within Northern

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Ireland as a means of delivering an appropriate, seamless, efficient and effective service to victims and witnesses across the Crown, Magistrates and Youth Courts. PSNI recognises the success of such units are heavily dependent upon the joint development, staffing and management of same with the PPS. We have taken the step of assigning a small project team to scope for instance possible unit locations, processes, procedures, staffing and business models with a view to creating momentum. In taking this work forward PSNI is conscious of the need to work collaboratively with the PPS to ensure the most effective and efficient system of witness and victim care.

(13) The key aims of the WCU are anticipated as follows:

- To encourage and support victim and witness contribution to the investigation and prosecution of offences at an early phase in the lifecycle of the case.
- To reduce non attendance rates which often lead to adjournments, delays and cracked trials.
- To increase and maintain satisfaction levels among those using the criminal justice system, (CJS)
- To improve wider public confidence in the CJS by bringing more offenders to justice
- To free up capacity across the CJS

Consider what priorities and actions need to be taken to improve the services provided to victims and witnesses of crime

(14) PSNI acknowledges and endorses the need to continually review the training needs of those officers and staff who interface with victims and witnesses on a daily basis. Criminal Justice Department is currently working with PSNI Training Department and PPS to develop a training package which will be delivered to all frontline officers including for instance Response, Neighbourhood and Detectives. As the 'gateway' to the Northern Ireland Criminal Justice System PSNI wants to ensure that officers and staff are aware of their responsibilities. This training package is designed to assist officers in understanding said responsibilities and in particular to assist in identifying and supporting vulnerable and intimidated witnesses from their first point of contact.

The training will cover areas such as 'Special Measures' and 'Achieving Best Evidence', supporting officers in affording vulnerable and intimidated witnesses equal access to justice. This training is planned to commence during December and its roll out will coincide with the commencement of the Justice Act 2011.

(15) In order to reinforce training and improve the support afforded to victims and witnesses by frontline officers PSNI is developing precise officer guidance and instruction on the care, treatment and management of victims and witnesses. This guidance will be readily available to officers via their mobile data device (Blackberry) and Aide Memoirs. Such guidance will include specific details on court special measures and achieving best evidence.

(16) In prosecution cases the sharing of victim and witness information to PPS remains pivotal to the 'early' identification of both the needs and requirements of victims and witnesses. PSNI is currently undertaking a review of the technical changes and upgrades needed to ensure full factual and timely information in relation to special measures or victim vulnerability is transferred to relevant PPS staff.

(17) The management of contested hearings / trials remains with Courts and Judiciary. PSNI looks forward to continuing working relationships within the criminal justice framework to potentially avoid the unnecessary calling of victims and witnesses by identifying and narrowing the issues of such trials. PSNI welcomes the recent Practice Direction of the Lord Chief Justice in relation to case management and the need to ensure only necessary victims and witnesses are called to present evidence – this direction is being piloted in the Belfast and Antrim Crown Courts.

- (18) PSNI acknowledges witness attendance at court, including police witnesses, is an issue within the criminal justice. We currently provide access to our service duty roster application (Options) to PPS within the greater Belfast area. Access allows accurate and 'live' information of officer court availability thereby reducing the potential for a hearing being ineffective due to non-appearance of the police witness. Access by PPS staff to 'Options' is progressing across all PPS regions.

The Police Service of Northern Ireland would like to assure the Committee of our continued commitment to the delivery of personal, protective and professional policing to the community of Northern Ireland. As the gateway to the criminal justice system we also remain deeply committed to ensuring that we continue to work with partner agencies to meet the expectations and needs of all victims and witnesses. We trust that this submission provides the Committee with a relevant insight into the current service provision to victim and witnesses, PSNI's view on the key issues and gaps in service provision to victims and witnesses and suitable alternative approaches to addressing the needs of same.

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# Probation Board for Northern Ireland

## 1. Introduction

- 1.1. The Probation Board for Northern Ireland (PBNI) is a Non-Departmental Public body (NDPB). The PBNI was created in 1982 by the Probation Board (NI) Order 1982 and is a key organisation within the Northern Ireland Criminal Justice system.
- 1.2. PBNI aims to prevent offending by assessing offenders; challenging offending behaviour; positively changing offenders' attitudes and behaviour; and protecting the public, to create safer communities.
- 1.3. At the core of all the work we undertake, probation is about reducing the risk of people becoming victims of crime. Everything we do is about preventing people becoming victims of crime and preventing re-victimisation.
- 1.4. As an NDPB, the PBNI has a Board of 13 members drawn from across the community. The Chair of the Board is Mr Ronnie Spence. The Director of PBNI is Mr Brian McCaughey. PBNI employs 376 people, of various grades (including Probation Officers, Managers, administrative and support staff), based in 31 locations throughout Northern Ireland. PBNI staff are also based in Northern Ireland's prisons (40 in total). All Probation Officers hold a professional qualification in Social Work (DipSW or equivalent). The PBNI also has a forensic psychology unit, and a Victim Information Unit. PBNI provide grant aid to voluntary and community organisations in respect of rehabilitation services for offenders.
- 1.5. PBNI works at every stage of the criminal justice process; at court, in custody and in the community and
  - Provides a Victim Information Scheme to any person who has been the direct victim of a criminal offence and the offender is supervised by PBNI.
  - Works with partners to minimise the risk of harm posed by certain violent and sexual offenders.
  - Delivers behavioural change programmes for offenders in custody and in the community.
- 1.6. The focus of all of the work undertaken by the Probation Board is to reduce offending. There are in effect 4 key elements of our work, which we describe as:
  - Ensuring sentence compliance;
  - Challenging offending;
  - Minimising harm; and
  - Promoting responsible citizenship.

## 2. Background

- 2.1. The PBNI provide around 9,700 reports for courts, parole commissioners and others every year. At any given time PBNI supervise over 5,000 court orders placed on offenders (4,100 under supervision in the community, 900 in custody). These offenders are supervised in relation to compliance against a wide variety of court orders, including probation orders; custody probation orders; combination orders; and community service orders. PBNI also supervise offenders released on licence from prisons and the Juvenile Justice Centre.
- 2.2. The PBNI delivers a wide range of challenging programmes tackling offending behaviour including specific programmes for those who perpetuate domestic violence and sexual offences, violent offending as well as programmes to address offending behaviour more generally.

- 2.3. With a presence in every provincial town in Northern Ireland, close working relationships with around 300 partners in the community and voluntary sector, PBNI supervises annually 160,000 hours of unpaid work to communities through the Community Service Scheme.
- 2.4. This is partly achieved by providing over £1.25 million every year to voluntary and community groups to help deliver services in relation to the prevention of crime and supervision of offenders (Community Development funding).
- 2.5. In the next year, in assist in delivering on its purpose of making local communities safer, PBNI also hopes to play a direct role in the newly established local Policing and Community Safety Partnerships (PCSPs).
- 2.6. All PBNI activities are delivered to clear standards and service requirements and in accordance with best practice principles. These standards are agreed with the Department of Justice and Lord Chief Justice.
- 2.7. For the purpose of this inquiry, PBNI's written evidence will focus on the needs of victims as they come into contact with the Criminal Justice System.

### **3. Probation Board for Northern Ireland Work with Victims**

- 3.1. PBNI believes that the victim's perspective is central to our work carried out with offenders. All our programmes and interventions challenge offenders to understand the impact their offence has had on the victim.
- 3.2. PBNI's statutory Victim Information Scheme was established under the Criminal Justice (NI) Order 2005 to provide information to victims about what it means when someone is sentenced to an order or licence supervised by PBNI.
- 3.3. As well as providing information, PBNI's Victim Information Scheme listens to the concerns of victims and this informs our work with the offender. Approximately 800 victims have joined the scheme to date.
- 3.4. Approximately 60% of those who have used the Victim Information Scheme have provided feedback; and the most recent analysis of this feedback shows that 98% were very satisfied / satisfied with their contact with the Scheme.
- 3.5. PBNI has completed a number of victim / offender pilots throughout Northern Ireland in conjunction with community partners, Alternatives and Community Restorative Justice Ireland (CRJI) and is committed to the use of a range of restorative interventions ranging from indirect mediation to victim / offender restorative meetings. In the right circumstances there is a real benefit in the victim of crime being able to make clear to the offender the impact the crime has had on their life. Following the successful completion of these pilots, victim / offender work continues to be supported through partnerships funded by PBNI's Community Development grants scheme.
- 3.6. PBNI needs to build greater resource capacity to deliver restorative approaches across the whole of Northern Ireland and begin to develop approaches in adult conferencing.
- 3.7. The Community Service strategy which was revised in 2010 has a theme of listening to the voices of victims and victim's representatives. Those who register via the PBNI Victim Information Scheme have an opportunity if they so wish to influence the type of work that an offender completes, for example if the victim supports a cancer charity the offender might be tasked to work for that charity. Victims are able to nominate particular schemes that may benefit from community service through PBNI's website.
- 3.8. The Alternatives community based organisation was appointed after a procurement exercise to help raise staff awareness with regard to victim/offender work through the provision of training to relevant PBNI staff.

- 3.9. PBNI Victims Unit also prepares reports for the Parole Commissioners in relation to life sentence cases. This enables the victims' families to have their say about any concerns they may have regarding the prisoners' release under PBNI supervision. 15 reports have been completed to date and the feedback from victims has been very positive. The Parole Commissioners have also welcomed this development.
- 3.10. PBNI is intent (resource permitting) on extending the provision of such victim reports for Parole Commissioners in relation to appropriate public protection sentences, thereby ensuring a victim centric approach in those cases which cause greatest harm.

#### **4. Desired Outcomes**

- 4.1. The way in which the Criminal Justice System engages with victims of crime needs to change.
- 4.2. The Criminal Justice System in Northern Ireland must strive to ensure the needs of victims are listened to, acknowledged and are a core part of the system's administration.
- 4.3. The Criminal Justice System should
- Deal with cases without undue delay.
  - Keep victims up to date about the progress of their case and provide support at all stages of the process.
  - Provide accurate, timely information about the person who offended against them.
  - Provide ways for victims to inform judges and other decision makers about the impact of the crime on them, their views and concerns.
  - Provide opportunities for restorative interventions between a victim and offender. Such opportunities must be victim led.
  - Provide an integrated service to victims.
- 4.4. PBNI is well placed and wishes to play its part in the provision of services to victims. This means
- Expanding the use of restorative interventions for the victims of offenders on community sentences, including face-to-face interventions, and restorative approaches with higher risk offenders.
  - Facilitating the delivery of restorative interventions in partnership with voluntary and community organisations.
  - Giving local communities the opportunity to participate in restorative initiatives.
  - Providing victims with specific and tailored information about their particular case.
  - Being part of an integrated service to victims, which operates on an 'opt out' basis, i.e. the starting position is that victims will be provided with information, and can choose to opt out if they wish (rather than the current 'opt in' provision as outlined in points 5.7 and 5.8 below).
- 4.5. For victims, and for Northern Ireland society more generally the outcomes will be
- Victims needs and concerns will be better understood.
  - Victims will have the opportunity to contribute their views on improvements to the criminal justice process.
  - There will be one point of contact for victims in Criminal Justice where they will receive timely information and support.
  - Local communities will have a role to play in restorative initiatives (possibility through PCSPs).



- There will be a better understanding of criminal justice, and therefore, confidence in the Criminal Justice System will increase.

## **5. Issues and Concerns Requiring Attention**

- 5.1. The most common concerns we hear from victims who are registered with our Victim Information Scheme are about the lack of timely information on their particular case, lack of ongoing contact throughout the duration of their case and confusion about what information they are entitled to at each stage of the criminal justice process.
- 5.2. PBNI is of the view that a singular interface for victims is the most effective means of providing accurate, timely information about the criminal justice system. In real terms, this means the amalgamation of existing Victim Information Schemes, and bringing into a singular entity the provision of support services for witnesses.
- 5.3. An integrated service for victims after an offender has been convicted could lead to the development of appropriate technology to exchange information with victims and witnesses, and also provide a single point of contact for more general information (helping to raise awareness and thus confidence).
- 5.4. The court process itself is difficult to understand and needs to be more responsive to the needs of victims and witnesses.
- 5.5. PBNI is of the view that victims should have the opportunity to have their voices heard at the key stages of the criminal justice process- from prosecution, at sentencing, when release from custody is being considered and when an offender is subject to licence conditions or supervision in the community.
- 5.6. Practical ways of achieving this may include provision of victim impact statements or victim reports at the prosecution and sentencing stages, opportunities to contribute to the agreement of licence conditions prior to release from custody, or contributing to multi-agency public protection arrangements for certain offenders.
- 5.7. For any information provided to victims post-conviction, this may be more effectively delivered on an 'opt out' basis (rather than the current 'opt in' requirement), i.e. unless otherwise specified, victims will receive information about the sentence given to an offender and their progress.
- 5.8. Currently, victims are required to register with PBNI's Victim Information Scheme in order to receive its services. Registration is mediated via provision of information by PSNI (PBNI has no direct contact with victims), which adds unnecessary delay and burden on staff to ensure victims have access to information. This is based on the current legislative provisions for PBNI's Victim Information Scheme. The current system is unwieldy, and means that PBNI is unable to ensure timely and accurate notification to victims.
- 5.9. PBNI recognise that each victim will have individual needs; therefore, information schemes should have more discretion in relation to the type and level of information which may be provided to victims. For example, currently PBNI is not able to disclose the actual date of release from custody to a victim, nor the area where an offender lives.

**6. Conclusion**

- 6.1. At the core of all the work we undertake, probation is about reducing the risk of people becoming victims of crime. Everything we do is about preventing people becoming victims of crime and preventing re-victimisation.
- 6.2. By providing victims of crime with information about the requirements of an offender's court sentence, as well as giving them the opportunity to inform decisions makers at key points in the criminal justice process, PBNI seeks to reduce the impact of crime on individual victims, and also to decrease the likelihood of further offending by explaining to offenders the impact of their behaviour on others.
- 6.3. PBNI would welcome the opportunity to provide oral evidence to the Justice Committee in relation to this inquiry should the Committee find that to be of assistance.

# Public Prosecution Service

## Executive Summary – Developing a new Strategy

1. The PPS is fully committed to delivering effective services to victims and witnesses.
2. In recent years the PPS has made substantial improvements to the services it provides to victims and witnesses. These include setting up Community Liaison Teams to meet the needs of victims and witnesses in the Magistrates' and County Courts; providing case progression information; giving reasons for no prosecution in all cases and more detailed reasons in a range of more serious cases or where there is a vulnerable victim; making use of the legislative provisions in relation to special measures; referring victims and witnesses to Victim Support's witness service and NSPCC's Young Witness Service; and delivering training to PPS staff and the voluntary sector and statutory agencies to improve service delivery to victims and witnesses.
3. The PPS has identified some gaps in service delivery and is taking forward a number of improvements to its current services. In addition the PPS is the lead organisation for the introduction of a witness case unit (WCU) model for victims and witnesses.
4. All of the above are more fully detailed in the attached submission. The paper also discusses the role of the prosecutor.

## Submission – developing a new strategy

### **1. Background**

- 1.1 The Public Prosecution Service (PPS) is fully committed to delivering effective services to victims and witnesses. This commitment derives not only from a recognition that it is the right thing to do, but from a realisation that victims and witnesses are fundamental to the successful operation of the criminal justice system. Without the witness, there is no evidence. Without evidence, there can be no prosecution.
- 1.2 There is now an increased awareness across society of the impact of crime upon the victim and also of the impact for victims of engaging with the criminal justice system. PPS recognises the traumatic experience that the undeserved and unwanted involvement in a crime can bring for many people. Equally important is the increased realisation that how the victim is dealt with by the criminal justice system can have a profound effect on how that person can cope with the experience of crime.
- 1.3 Having said that, the manner in which the criminal justice system is organised and the role which is required of the prosecutor has an undeniable influence on the way in which the prosecutor is perceived by the victim. It is important that the role of the prosecutor is properly understood so that unrealistic expectations are not created and misunderstandings are avoided. The way in which our system of criminal justice is currently organised requires that the PPS acts on behalf of the public in the public interest, representing the views of society as a whole, not just on behalf of the individual victim. Accordingly the prosecutor is not the victim's legal representative in the way the defendant is represented by a solicitor and a barrister. The prosecutor is enjoined to assist the court in ensuring that the Accused receives a fair trial, while the Accused's legal representatives' sole function is to represent his interests as best as possible including seeking to secure his acquittal.

- 1.4 The 2009 House of Commons Justice Committee Report entitled “The Crown Prosecution Service: Gatekeeper of the Criminal Justice System” clarified the role of the prosecutor in the following terms:

*“The prosecutor’s role in relation to victims also seems to be generally misunderstood. The prosecutor is not able to be an advocate for the victim in the way that the defence counsel is for the defendant, yet government proclamations that the prosecutor is the champion of victims’ rights may falsely give this impression. Much of the prosecutor’s work by its nature serves the needs of victims, and we should strive for a better service to victims, but there needs to be a better understanding of what is possible for the prosecutor to be and to do in relation to victims.”*

- 1.5 Of course, the limitations which are placed upon the role of the prosecutor do not mean that the victim should not receive a proper service. It is clear that good standards of service and information provision can assist a person in their engagement with the criminal justice system, whilst poor service can have a devastating effect, potentially compounding the distress and anxiety of the crime. It is in this context that the PPS recognises its responsibilities to victims.

## **2. Current Service Provision**

- 2.1 Recent years have seen substantial improvements to the services which PPS provides to victims and witnesses. It is hoped that the following summary of the key aspects of these services will be of assistance.

### **PPS Community Liaison Teams**

- 2.2 Perhaps the most demonstrable change in service provision since the setting up of PPS has been the establishment of specific teams of staff entitled ‘Community Liaison Teams’ (CLTs), dedicated to providing information to victims and witnesses. These teams were developed to meet the need for victim and witness liaison in the Magistrates’ and County Courts. They are regionally based and this has the benefit that those PPS staff who carry out these duties will be drawn from the victim or witness’s own local area.
- 2.3 The principal functions of CLTs are:
- to check witness availability, usually by way of a telephone call to the witness;
  - to send out documentation explaining to a witness practical matters regarding attendance at court, including the services offered by VSNI Witness Service (WS); and
  - to answer any general queries a witness may have. In the event that a query requires a legal input, the matter is passed to a prosecutor to deal with.
- 2.4 However, there are a number of limitations in relation to the role of the CLTs which should be noted. From its inception in 2005 the PPS has not been resourced to deliver CLT services in the Crown Court where police retain a significant role in witness liaison. Additionally, whilst current arrangements provide for witness attendance at court, they do not extend to the delivery of services at court or to providing assistance at the post court stage.
- 2.5 A potential further development in service provision could involve the establishment of a PPS dedicated support officer to carry out a meet and greet role at court and to deal with witness queries which arise there. This option is explored in more detail in the final section of this paper under the heading ‘Alternative Approaches’.

### **Case Progression Information**

2.6 The PPS recognizes the importance of information provision and is committed to ensuring that victims are kept informed of the progress in the case in which they are involved. The following is a summary of the key stages where written communication is provided by the PPS:

- A letter from the PPS Regional Prosecutor is sent to the family representative of the deceased at the time of charge in cases of death, explaining the role of the PPS and providing a contact point
- A letter is sent by PPS to the victim in indictable cases, notifying them of the receipt by PPS of an indictable case file from police
- A letter is sent by PPS notifying the victim of the PPS's decision whether or not to prosecute the case in which they are involved
- If the decision is not to prosecute, then, in certain categories of cases, including serious cases and those with a vulnerable victim, a letter is sent to the victim, setting out an explanation of the reason/s for that decision, and advising them of the availability of a review of the decision
- A letter indicating when the witness is required to attend court to give evidence (their availability having been ascertained in advance)
- A letter notifying the victim of the outcome of the case

2.7 It should be noted that letters include other helpful information, such as contact details for Victim Support or NSPCC and relevant explanatory leaflets relating to the functions of the PPS. There are also additional letters depending on particular developments in a specific case, regarding, for example, the grant of special measures or an appeal by the defendant.

2.8 The PPS has recently conducted a review of its correspondence to victims and witnesses. By way of illustration, it has 55 'template' letters and sends in the region of 8,000 letters to victims/witnesses each month. This project, whose aim is to improve written communication with victims and witnesses, has almost concluded. This involves consultation with key stakeholders from the voluntary sector seeking their views on the content and style of communication. The PPS has previously consulted with VSNI with regard to particular letters such as letters to the family representative in cases of a death and on the letter informing the victim of the reasons for a decision not to prosecute. The input from voluntary sector partners is regarded as valuable in quality assuring our services.

### **The Giving of Reasons in cases of No Prosecution**

2.9 It should be noted that in cases where the PPS takes a decision not to prosecute, it gives the victim the reason for that decision in writing in all cases. The letter will indicate whether the decision is based on evidential or public interest grounds. In a range of more serious cases, or in cases where there is an identified vulnerable victim, a letter is sent to the victim giving detailed reasons for a decision not to prosecute, offering to meet with the victim, and advising of the opportunity to request a review of that decision.

2.10 It is important to remember that in giving reasons, a balance must be struck between the proper interests of the victim and other concerns, such as damage to the reputation or other injustice to an individual, the danger of infringing upon the presumption of innocence or other human rights and the risk of jeopardising the safety of individuals.

### **Special Measures**

2.11 Where the victim is 'vulnerable' or 'intimidated', legislative provisions exist to provide 'special measures' for that victim when giving evidence. These include having their evidence in chief video recorded for use at trial, having their cross-examination conducted via live link from a room outside the court room, screening from the defendant, the removal of wigs and gowns by lawyers and the judiciary and the use of communication aids intended to make the

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evidence of the witness more easily understood. The legislation also makes special provision for child witnesses.

2.12 The grant of such special measures is a matter for the court upon application by the Prosecution. Prosecutors are trained in special measures so that applications are made in all cases where the witness is eligible and wishes to use special measures to give their evidence.

2.13 The PPS is an active member of the interagency group which has recently developed new guidance for practitioners on the use of special measures and is also working on the introduction of an Intermediaries Service for Northern Ireland to assist witnesses with communication difficulties give evidence.

#### **Referrals of Witnesses to Witness Service and Young Witness Service**

2.14 Victim Support's Witness Service and NSPCC's Young Witness Service for under 18 year olds provide important services for victims and witnesses. These include pre-trial familiarisation visits, volunteers who can assist a witness and a separate waiting area intended to reduce the possibility of visual contact with the defendant.

2.15 PPS has worked with Victim Support and NSPCC to develop a PPS electronic system of referrals to Witness Service, designed to ensure the maximum number of witnesses can avail of this service, whilst providing that Data Protection requirements are adhered to. Figures for the last year are in the region of 11,000 referrals. This is a good example of effective inter-agency working intended to improve services to victims and witnesses.

#### **Use of IT**

2.16 The PPS is currently taking forward a project with a view to improving the delivery of case progression information to victims by taking advantage of the increased opportunities offered by the electronic media. This is an innovative concept which is being designed to provide an immediate case update service. The concept is that when a case file is received by PPS, the victim will be given a log-in password to the new portal which can be accessed on-line through the PPS website. The victim will be able to see information about the case in which they have an interest, which information will be drawn from the PPS electronic case management system. This will be updated overnight, every night.

#### **Guidance and Training**

2.17 The PPS recognises the importance played by the development of policy and training in ensuring that service delivery remains effective and relevant to the victims needs. Accordingly, it has developed a wide range of policy guidance and training on specific offence types, for example, sexual offences and domestic violence and on special measures and other measures to assist a witness in giving evidence. The PPS is also active in providing training to the voluntary sector and to statutory agencies in a range of victim and witness-focused areas. In turn, PPS staff also receive training from the voluntary sector regarding awareness raising of victim and witness needs and on re-victimisation.

2.18 Earlier this year the Service held a range of stakeholder events with a victim and witness theme. Sessions were delivered by speakers from the voluntary and statutory agencies, in the area of rape, road traffic offences and hate crime. This high level of interagency contact is an aspect of the current arrangements which appears to work well. It provides improved policy-making, information and awareness sharing, joint training and better monitoring and evaluation of the effectiveness of measures to assist victims and witnesses.

#### **Publications and Community Outreach**

2.19 The last ten years have seen significant developments in the provision of information with regard to how prosecution decisions are taken. This can be seen in the drawing up and publication of the PPS Code for Prosecutors which is currently under revision. Further



information regarding issues relating to specific offence types can be found in other PPS policy documents, including the PPS Victims and Witnesses Policy and in a range of explanatory leaflets. It should be noted that independent counsel instructed to act on behalf of PPS are subject to the same guidance as employed PPS staff and to the PPS Code of Ethics. Advocacy standards have been agreed with the Bar Council which incorporate a requirement to adhere to PPS policies on victim and witness care.

- 2.20 A simple explanation of minimum service provision for victims is set out in the interagency publication, *The Code of Practice for Victims*, published in March 2011. The PPS has also developed a Complaints system with an Independent Assessor as well as a proactive programme of Community Outreach aimed at raising awareness of the role and operation of the PPS.

### **3. Key issues and gaps**

- 3.1 Whilst acknowledging the improved degree of service provision as evidenced by the increasing levels of recorded victim and witness satisfaction, it is clear that there can be no let up in the drive to improve services. Recognising that on occasions the victim's perception of how a matter was dealt with may not accord with the reality of what happened on the ground, the criminal justice system must nevertheless seek to address a number of issues including:

- There may be a perception from the witness's point of view, of a lack of consistency in service provision at different stages of the process, with a requirement on them to repeat their 'story' to different agencies in order to get information they require.
- A requirement for further case progression information, such as relating to the grant of bail.
- Issues around the listing of cases can be a cause of dissatisfaction, such as a perceived delay in listing of cases, repeat adjournments, and being given short notice of adjournments.
- The current lack of a comprehensive, up-to-date, individualised witness needs assessment.
- There is at present in our criminal justice system a lack of guidance or process around the use of Victim Impact Statements. This issue is currently being taken forward by the interagency Victim and Witness Steering Group and a public consultation is soon to take place.
- Further to the issues set out in para 1.3 and 1.4 above, we recognise that there may be a perception among victims that there is no one to 'represent' them, while the Accused is perceived to be fully represented.

- 3.2 The matter can perhaps be best summarised by noting the outcome of recent research which demonstrates that the key issues impacting upon victims' and witnesses' experience of the criminal justice system can be summarised by two key needs:

- a desire to be treated with sensitivity and respect, and
- to be provided with information about their case and the process.

- 3.3 Whilst it is recognised that some victim and witnesses dissatisfaction derives from the way in which the adversarial system operates, there remains a necessity to address these key needs. Seeking to do so can sometimes be frustrated by an apparent lack of continuity between the agencies at different stages in the process. It could be argued that this points towards a 'single point of contact' model as the aspiration for any future radical changes to the system.

- 3.4 In this context, important issues arise in relation proportionality and the availability of resources. The concept of proportionality has an obvious impact in exploring the most effective use of resources. Decisions will be required as to whether it is appropriate to

provide the same level of service to a victim in a relatively minor case who has particular needs to that in a serious case where there is an identified vulnerable victim. This aspect is explored in the final section of this submission.

#### **4. Alternative Approaches**

- 4.1 The PPS is committed to developing its services to victims and witnesses to ensure that cases are properly prosecuted and that, in so far as it is possible, decisions are explained and transparent to victims and witnesses. As was stated above and in order to meet this objective, the PPS is taking forward a number of improvements to its current services. For example, PPS is examining the circumstances in which the reasons for no prosecution decisions can be given in an increased range of cases; a project has been commenced with a view to providing detailed information as to case progress online to those victims who wish to avail of that option; training programmes will continue to be conducted on a regular basis for PPS staff in conjunction with Victim Support and other voluntary agencies; the PPS is closely involved in the project to develop the use of Victim Impact Statements and Reports for sentencing purposes in Court and the PPS is the lead organisation for the introduction of a witness care unit (WCU) model for victims and witnesses.
- 4.2 It is understood that CJINI will shortly be publishing a report in relation to Victim and Witness Care. It is expected that a significant recommendation of the report will be the adoption of the Witness Care Unit model in Northern Ireland. In this regard, Police and PPS have been working for some time with a view to introducing a model of victim and witness care which best suits this jurisdiction. Work already completed has identified a number of good practices which can be imported from elsewhere. Equally, it has become clear that there are particular features of the Northern Ireland context which may provide the opportunity to provide a higher level of service than that currently available in England and Wales.
- 4.3 A joint PPS/PSNI visit to examine the WCU in operation in Bradford in West Yorkshire, revealed that many of the services offered there were equivalent to those available through the PPS Community Liaison. Indeed it should be noted that the principal function of the Witness Care Unit model in England is to improve the attendance of witnesses in cases which are to be contested at Court. The English model does not provide services during the investigation or decision making stage to victim and witnesses. Equally, it does not provide services in cases where no prosecution is directed or where a plea of guilty is entered or in cases of diversion. It should also be noted that the Bradford model is only one of a number of models used by police and CPS in England. HM CPS Inspectorate are currently undertaking a detailed review of different the methodologies for WCUs in England and Wales and it is likely that their findings will be relevant to this jurisdiction.
- 4.4 However, there would appear to be four key differences between the Bradford model and the present level of service available in Northern Ireland:-
- (a) the WCUs deal with Crown Court cases as well as Magistrates' Court Cases;
  - (b) a formal witness needs analysis is carried out by the WCU;
  - (c) the service is centralised with that for West Yorkshire being centralised in Bradford;
  - (d) where possible, one witness care officer deals with the same witness throughout the process.
- 4.5 In considering the way forward it is clear that a possible option is to build onto the current system those aspects of the Bradford model which appear immediately beneficial in the context of Northern Ireland. However, before doing so it would be prudent to determine the extent of any actual benefits for victims and witnesses in proceeding with such a change. For example, in Northern Ireland contact with victims and witnesses in Crown Court cases is presently carried out by police in liaison with PPS Crown Court Clerks. To conclude, without more, that this should become a WCU function may result in losing the benefits of a known,

trusted person contacting the victim. Victim satisfaction may reduce where personal contact is replaced by a telephone call or letter from someone not known to the victim or witness.

- 4.6 In this regard, it should be recognised there can be benefits where service is delivered through local staff dealing with local people, rather than from a more remote, centralised unit. On the other hand, careful analysis may conclude that, resources permitting, an appropriate combination of the two is appropriate. The PPS would be anxious to ensure that the introduction of WCUs leads to substantive, positive change in the level of service offered to victims and witnesses. This will require a comprehensive analysis of the measures required to deliver such positive change. Such analysis should include all options including that involving the most extensive change, where advantage could be taken of the additional beneficial processes which the system in Northern Ireland can deliver.
- 4.7 For example, the Causeway system would enable a WCU in Northern Ireland to deal with a case from an earlier stage and to a later stage than is possible in England, where such an integrated IT system is not presently available. In Northern Ireland the witness care officer, drawn from either PPS or police, could not only assist the victim or witness to come to court but could, in due course, provide information in relation to important matters such as the details of custodial sentences, release dates etc. This would be enabled through partnership working with Probation Service and Prison Service and has the capacity to deliver benefits which go beyond the Bradford model.
- 4.8 A further development of this model may be to have a dedicated witness case officer for the WCU at Court to facilitate the co-ordination and handling of witness care issues in a holistic manner. It is recognised that such an option would require significant additional resources in terms of staffing and training but it does have the potential to provide an enhanced single point of contact for victims and witnesses in the unfamiliar environment of a Court. Such a model would provide a properly trained person to liaise between the victim and witness and the prosecutor. It would build upon the existing working relationships with Victim Support and the NSPCC.

## **5. Conclusion**

- 5.1 The PPS has been pro-active in seeking to develop an appropriate way forward with regard to victim and witness care. It has and will continue to work closely with partner agencies to establish the best possible local solution taking account of experience in other jurisdictions. The PPS is committed to ensuring that its people, policies and practice recognise and enhance the priority of victims and witnesses in the criminal justice system thereby bringing about an improvement in the services, information and care they receive.

# Royal College of Speech and Language Therapists

1. **Royal College of Speech and Language Therapists**
2. The Royal College of Speech and Language Therapists (RCSLT) is the professional body for speech and language therapists (SLTs), students and support workers working in the UK.
3. The RCSLT has over 13,000 members, including nearly 95% of the SLTs working in the UK of which over 300 practice within Northern Ireland. We promote excellence in practice and influence health, education, social care and justice policies.
4. SLTs play a major role in working directly with children and adults, as well as supporting other professionals in working with speech, language and communication needs.
5. The RCSLT has previously contributed to 'Special measures an evaluation and review' and 'Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, using special measures and provision of pre-trial therapy'. Our key points relating to the terms of reference are outlined below.
6. **Review the effectiveness of the current approach and services provided by the criminal justice agencies to victims and witnesses of crime.**
7. The RCSLT believes that any person with a communication difficulty or disability has a right to expect and receive specialist consideration during evidence gathering and in court proceedings to ensure a fair judicial process with the highest quality of submissible evidence.
8. Communication difficulty and disability have a great impact upon every process within the legal and judicial system. Victims and witnesses of crime who have a communication difficulty or disability will misunderstand questions that are posed to them and will have difficulty responding verbally.
9. Current practice in the judicial process is failing victims and witnesses of crime with speech language and communication difficulties. This includes the process from initial evidence gathering by investigating officers through to giving evidence in court and consideration and understanding by the judiciary of the implications and needs of those with communication difficulties.
10. **Identify the key issues impacting on the experiences of victims and witnesses of crime of the criminal justice system and any gaps in the services provided.**
11. Identification: The RCSLT believes that there is a significant gap in justice agency staff skills and knowledge in identifying people with speech, language and communication needs prior to interview and throughout the justice pathway.
12. Assessment: The RCSLT believes that any future guidance on assessment should identify a range of general factors to be explored via an assessment prior to interview. Subjective assessments are more likely to rely heavily on subjective officer perceptions of 'normal' behaviour. Where prevalence of speech, language and communication disabilities is high, there is a danger that subjective assessment will result in false norms which are unreasonably low.
13. It should be noted that in England where the intermediary scheme is currently in place, less than half of the intermediary referrals for adult witnesses were for learning disabilities<sup>1</sup> or mental health<sup>2</sup>. More importantly, over half of the cases were for communication problems including language delay, dyspraxia, hearing impairment and autistic spectrum disorder.

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1 43% of referrals from April 2009

2 7% of referrals from April 2009

14. Although generic identification guidance is welcomed, the use of *standardised assessment tools* to support identification of victim/witness needs must be implemented. The RCSLT was involved in the working groups which submitted the report 'Making a difference for offenders with learning disability and/or specific learning and communication difficulties'. This report suggests a range of screening tools and training needs for justice sector staff which would also be applicable to supporting victims and witnesses.
15. *The RCSLT therefore supports the implementation of a standardised assessment tools to support identification of victim/witness communication needs.*
16. Training: Nearly one in ten children has a communication disability. This proportion increases dramatically in vulnerable groups. Most children with learning disabilities have some form of communication difficulty and at least 60% of young offenders have communication difficulties.<sup>3</sup> Young offenders themselves are also likely to be victims and witnesses.
17. A recent National Association of Probation Officers and Royal College of Speech and Language Therapists survey revealed that most of those on probation or parole supervision have low educational attainment, learning difficulties and problems either expressing themselves or understanding what is being said to them.
18. This means that police officers, solicitors, barristers and judges will encounter a significant proportion of victims, witnesses and defendants with communication difficulties. It is therefore crucial that justice sector staff have the skills to identify such people as early as possible.
19. The notion of a fair and equitable trial is of paramount importance and yet history has shown us that people with learning disabilities have been denied not only a fair and equitable trial but even the opportunity to participate.

*A young man was bailed by magistrates to reappear to face charges brought against him. Two weeks later, he was arrested and sent to prison for failing to adhere to his bail conditions. His real "crime" was not being able to read or understand his bail conditions. Should we be imprisoning people for being illiterate or not having the capacity to understand what is required of them?*

20. The RCSLT has developed an E-Learning Tool and Face to Face training package that will provide justice sector staff with the skills to identify individuals for special measures in a timely and consistent manner.
21. *The RCSLT therefore recommends that appropriate mandatory training in the identification of vulnerable people with communication difficulties is put in place.*
22. Communication: Research has shown that many vulnerable witnesses or victims may not be known to local services, or may not have had specific disabilities or difficulties identified either within or outside of an institutional environment. Police should be encouraged to raise suspicions or concerns of vulnerabilities/disabilities both with professionals who know the individual and with agencies that might effectively coordinate medical or therapeutic assessments and subsequent support.
23. Whilst therapeutic care may be delivered as part of special measures to support witnesses, it should be considered that therapeutic interventions may also be needed to support the long term well being of a witness or victim whose needs have not previously been identified. Police therefore also play a crucial role in identifying and referring vulnerable individuals who may benefit from therapeutic support in the longer term.

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3 Bryan, Freer and Furlong (2007) *Language and communication difficulties in juvenile offenders*, IJDL, 42, pp. 505-20.

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24. We believe that police must give consideration to obtaining medical or equivalent evidence from someone with professional knowledge of the witness in the appropriate discipline as this may be required in support of a special measures application.
  25. *The RCSLT recommends that clear lines of responsibility are outlined for the passage of information between relevant agencies to ensure that health, education and social care agencies have a statutory responsibility for ensuring the transfer of relevant information to the justice agencies.*
  26. **Identify and analyse alternative approaches and models of good practice in other jurisdictions in terms of policy interventions and programmes.**
  27. The RCSLT believes that at all stages of the criminal justice process there are failings in the identification and support of victims and witnesses with communication difficulties and in the training of criminal justice staff in meeting their needs. Officers who misunderstand the language ability of an individual will use language and ask questions that the individual is unable to process.
  28. **Consider what priorities and actions need to be taken to improve the services provided to victims and witnesses of crime.**
  29. *RCSLT recommends and supports the use of registered intermediaries (and other special measures) to support all vulnerable people throughout the criminal justice system.*
  30. *RCSLT recommends mandatory training for all justice agency staff and the judiciary in the identification and support of individuals with communication difficulties.*
  31. RCSLT recommends the implementation of a standardised assessment process including a screening tool sensitive to identifying communication difficulties.
  32. RCSLT recommended in the Northern Ireland special measures consultation that the definition of vulnerable witness is adjusted to include children under 17 years of age and adults whose evidence is likely to be affected by a mental disorder or impairment of intelligence and social functioning<sup>4</sup> or who have a physical disability or *speech language and communication disorder*. Communication difficulties are often referred to as “hidden disabilities” because they are not obvious in the same way as physical disabilities.
  33. RCSLT recommends that definitions should make it explicit that a physical disorder may include communication difficulties which may not be attributable to a mental, intellectual or physical disability.
  34. In regard to guidance in future strategies the RCSLT would like to see case study examples to enable the reader to place this in a contextual and /or real life framework.
  35. We believe that guidance could be strengthened further by evidencing current research such as the emerging benefits in the use of intermediaries, including assistance in identifying the needs of vulnerable witnesses.

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4 This term is used in law in England and proposed in Scotland



James Watts, 57, a minibus driver, thought that he had found the perfect victims: four women, three of whom have cerebral palsy and a fourth who has brain injuries, women so disabled that they would never be able to tell anyone what had happened. They could never say because they couldn't talk. But, just to be on the safe side, he also threatened one of the women with a knife and warned another he would leave her behind on a day trip if she told anyone.

But talk they did – although not with words. One communicated by blinking “yes” and “no” answers to police. Another communicated by using a computer pointer controlled by a joystick on her wheelchair and pointed to symbols of body parts to describe what Watts had done to her.

She said that the assaults had taken place on several occasions on day trips away from the home. A policewoman asked: “Are there any other pictures of how you felt when he did that to you?”. The woman selected a symbol and the computer said the words, “I cried”. Watts was sentenced to 12½ years imprisonment.

36. *RCSLT recommends that guidance must contain contact details for local support services relevant to suspected or identified needs.*
37. Any guidance also needs to make clear the most suitable structures for local delivery, for example clear referral pathways following assessment of vulnerability. It is important to reference referral pathways to local SLT services and contact details for local speech and language therapy service managers.
38. Delivery of any guidance will require coordination of services between a wide range of public, third and private sector bodies.
39. Additional suggestions for documents and useful sources that could be included in the appendix can be found on our website at [www.rcslt.org/about/young\\_offenders\\_and\\_criminal\\_justice/intro](http://www.rcslt.org/about/young_offenders_and_criminal_justice/intro).

# University of Ulster Restorative Practices Programme

## **The Restorative Practices Programme at the University of Ulster**

Since 2003 the University of Ulster has been delivering training to the Youth Justice Agency, the Police Service of Northern Ireland, the Prison Service, community based restorative justice projects, social workers and schools. Approximately 350 students have completed courses accredited at certificate, diploma or masters level.

## **Restorative Justice**

The University of Ulster teaches the 'balanced model of justice' which asserts that a justice system can only be assessed as effective if it balances the needs and interests of victims, offenders and their communities.

1. *It is our submission that the current criminal justice system in Northern Ireland needs to be rebalanced to focus on the needs and interests of the victim as well as those of the offender and communities.*

Crime harms victims in many ways. The criminal justice system should be designed primarily to provide victims with justice. Yet throughout the criminal justice process victims have little or no part to play. Their voice is seldom heard. Their needs and interests are rarely addressed effectively. As a result the public generally finds the work of the criminal justice system unsatisfactory.

The Government of Northern Ireland has the opportunity to design a criminal justice system which enables victims to participate actively in the justice process so that their voice is heard and their interests attended to, to receive support to have their needs met and to hold those who have harmed them to account.

Rather than focusing on crime and punishment restorative justice focuses on the harm that crime causes and seeks ways for harm to be repaired and prevented in the future. For this reason a restorative justice system begins with the harm caused to the victim while recognizing that communities are also harmed and that a criminal lifestyle also harms offenders and those close to them.

2. *It is our submission that the criminal justice system should prioritise the needs and interests of victims at every stage of its process. This does not imply that the needs and interests of offenders should be neglected.*

The University teaches that being a victim of crime is a distressing, and in some cases a traumatic, experience. Certain needs arise from the impact of the harm. Research into victimization has found that victims commonly experience a need for safety, for justice and to regain control of their lives. The impact of the harm varies according to the nature of the offence, the vulnerability of the victim and the support available to the victim. Consequently there can be no standard response to meeting the needs of victims. The best way to meet each individual's needs is to listen to what they say.

3. *It is our submission that victims should have their voice heard and be enabled to participate actively within the criminal justice process.*

The experience of youth conferences facilitated by the Youth Justice Agency and of community based restorative justice projects has demonstrated that, if offenders are made accountable to their victims and if victims' accounts of their suffering are listened to respectfully, constructive and demanding action plans committing the offender to make amends for the harm and to take steps to prevent its reoccurrence are agreed and implemented successfully. In these circumstances victims rarely demand punitive disposals or custody. In this way

victims have a personal experience of justice and have their needs satisfied, offenders are enabled to desist from harm and expensive and unnecessary punishments are avoided.

### **Practical proposals**

While restorative justice is an effective approach to satisfying victims' needs, its weakness is that it requires the offender to be apprehended and to admit responsibility for the harm. Low clear-up rates mean that most victims will never be offered a restorative conference. Understandably the police will often try to persuade offenders to have past offences of which they were not convicted to be 'taken into consideration'. This can lead to some victims feeling that they are excluded for the criminal justice system.

Victims need services whether the offender is apprehended or not. Victim Support NI provides a vital service to victims of crime. Other organisations specialize in supporting victims of specific crimes such as sexual offences, domestic violence, racially motivated crime, child abuse and the harm caused during the civil conflict.

Young people tend to be labeled as offenders. Yet statistically young people are the group in society most likely to be victims of crime. Most victims' organisations are not designed for young victims of crime.

4. *It is our submission that these organisations need adequate long term funding so that they can develop and sustain high quality services for victims.*
5. *It is our submission that there should be services designed specifically for young people who have been victims of crime.*
6. *It is our submission that those working in these organisations should receive appropriate accredited training so as to assure a professional service.*

For victims (and witnesses) experiencing the criminal justice process of investigation and court proceedings can be stressful and confusing especially for children and young people who lack the support of parents and to vulnerable adults. Victims in general complain that they are not kept informed about progress on detecting and prosecuting their case, This adds to their anxiety and reinforces their belief that they do not count.

7. *It is our submission that the Appropriate Adult Scheme should extended to victims and witnesses who are children and young people and who are vulnerable adults.*
8. *It is our submission that victims should be kept informed on a routine basis by the PSNI or the Public Prosecution Service on the progress or otherwise of their case. They should be given a contact point which they can use to contact the PSNI or PPS proactively.*

Some victims do not understand how sentences are determined in their cases and as a result feel that their needs and interests are disregarded. They are excluded from the 'deals' that are negotiated between the prosecution and defence over charges, pleas and anticipated sentences. They have no access to pre-sentence reports.

9. *It is our submission that a victim advocate should be available to explain to victims the sentencing process, inform them on the key issues being addressed in the process and represent their views and interests.*

Victims should have the right to articulate how the crime has affected them and what steps should be taken to repair the damage caused to them by the offence. Victim impact statements should relate to victims' needs and not influence levels of punishment or rehabilitation which should remain the domain of the judge.

10. *It is our submission that victims should have the right to submit Impact Statements describing how the offence has affected them and those close to them. They should also include a statement of what they need to restore their sense of safety and well being.*

*They should not attempt to influence the punishment ordered by the court. However, the Impact Statements could include a request to the offender that he or she should complete some act of direct or indirect reparation whatever sentence is determined.*

Victims may wonder about what effects the sentence has had on the offender. They have a strong interest in not only their own safety but also in the protection of other potential victims.

11. *It is our submission that those agencies responsible for the implementation of court sentences (the Probation Board, the Youth Justice Agency and the Prison Service) should provide a report at the completion of the sentence on the offender's participation in the sentence and its outcome in relation to the reduction of risk in reoffending.*
12. *It is our submission that towards the completion of custodial sentences in the cases of serious violent or sexual offences victims should be informed about the arrangements for release and risk management in relation to the offender. They should be kept informed on any breaches or changes in these arrangements.*

Restorative conferences in relation to young offenders and their victims have been an outstanding success in providing victims with a satisfying experience of justice Northern Ireland. This success has been due to a robust practice model, the recruitment of high caliber practitioners, accredited training, and rigorous performance management.

13. *It is our submission that restorative conferences should now be extended to adult offenders and coordinated by specialist, facilitators trained to same standard as the youth conference coordinators.*

Even though restorative justice should balance the needs and interests of victims and offenders, the way that the criminal justice system has developed means that the process is inevitably offender focused. Currently restorative conferences are initiated by the need to determine what should happen to a individual responsible for a criminal offence. We know that victims have questions about the experience of being harmed that can only be answered by those who have harmed them: Why did you choose me? What happened to my son/ daughter/father/mother etc? Will you do it to me again?

14. *It is our submission that victims should be enabled to request a facilitated meeting with the person who has harmed them at any time irrespective of how the system has dealt with the offender. This should be conducted on the basis of the offender's consent and through a planned, safe and respectful process facilitated by trained practitioners.*

There are a range of highly trained and professional practitioners focusing on offenders in the criminal justice system. The implications of this submission is that serving victims' needs and interests is a highly skillful and professional task.

15. *It is our submission that a professional accreditation for work with victims should be designed and delivered in Northern Ireland and this should be delivered at University level.*

Northern Ireland needs a comprehensive policy on victims of crime and an effective strategy for implementation to rebalance the criminal justice system.

16. *It is our submission that the recent EU Directive on Victims of Crime provides a structure for such a policy.*
17. *Many of the initiatives suggested in this submission will be innovative and not all will prove successful in practice. It is our submission that a new policy and strategy on victims of crime should be subject to independent research and evaluation.*

## SAMM NI

1. SAMM NI. Support After Murder and Manslaughter Northern Ireland, is the local branch of an independently registered charity SAMM National, funded in England and Wales by the Home Office. SAMM offers free and confidential practical help and emotional support to families and friends bereaved through murder or manslaughter. SAMM is involved in training, research, raising public awareness and increasing the understanding of agencies who work closely with the families. SAMM National has assisted in many reports, papers and television programmes, met with Members of Parliament and given evidence before a House of Lords Select Committee and at the House of Commons Home Affairs Committee. Referrals are made to SAMM NI by PSNI Family Liaison Officers, Victim Support NI and some families make contact themselves. SAMM NI has been involved in the training of the PSNI's Family Liaison Officers since 2006 and has given presentations to agencies within the Criminal Justice System. SAMM NI works very closely with Victim Support NI and other support agencies such as The Family Trauma Centre based in Belfast.
2. This submission aims to reflect the experiences of SAMM NI members, i.e. those most deeply and directly affected by the way Criminal Justice Services in Northern Ireland attempt to meet the needs of those who have lost loved ones to murder and manslaughter. It will also offer recommendations for action, as per Paragraph 2 of the Northern Ireland Assembly's Guide to Submitting Written Evidence to Assembly Committees.
3. The following paragraphs will deal, in turn, with the first four bullet points constituting the Terms of Reference of the Inquiry (the fifth, reporting to the Assembly is a matter exclusively for the Committee).
4. **Review the effectiveness of the current approach and services provided by the criminal justice agencies to victims and witnesses of crime.** SAMM NI has identified a serious flaw in the current approach; all the criminal justice agencies refer to the needs of victims and witnesses in their strategies, but there is no reference to the needs of families bereaved by murder and manslaughter. Unless a family member is being called as a witness the family has no role in the system. They are told repeatedly that they are not victims as the victim is dead. Louise Casey in her 'Review into the Needs of Families Bereaved by Homicide' published in July 2011(page59) states: "the criminal justice system barely recognises that family, because they have no formal status." SAMM NI recommends that the needs of families should be acknowledged by all agencies they come in contact with during the investigation and court experience. Thought needs to be given on preparation for the family about how a criminal trial proceeds; the language used; what the possible verdicts are; sentences imposed; and appeals procedure for too lenient a sentence.
5. **Identify the key issues impacting on the experiences of victims and witnesses of crime of the criminal justice system and any gaps in the services provided.** A key issue is the depth and extent of trauma suffered by those who have lost loved ones. A survey by our parent organisation, SAMM National, identified that over 80% of families suffered trauma-related symptoms, 75% suffered from depression, and 20% developed alcohol-addiction issues. The trauma suffered by families can often be exacerbated by the criminal justice services, e.g. accessing the body for burial, access to information about what happened, understanding the legal processes, and the sentence if applicable. SAMM NI would recommend (i) the Committee satisfies itself that enough is being done to ensure all criminal justice agencies are aware of, are trained in, and take account of, families suffering from trauma as they engage with the criminal justice system, and; (ii) scope the provision of trauma support provision, to ensure adequate reach, including an analysis across geographic and age group provision.

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6. **Identify and analyse alternative approaches and models of good practice in other jurisdictions in terms of policy interventions and programmes.** SAMM NI recommends the Committee considers positive actions that would acknowledge and address the practicalities families suffer during bereavement. For example, homes may become crime scenes, forcing families to move; the victim may have been the wage earner; the victim may have dealt with the very issues that the family are now required to action, e.g. dealing with statutory agencies, paying bills, organising diaries. SAMM NI invites the Committee to study international best practice in the provision of liaison officers who act as “gatekeepers” for families; we also suggest consideration is given to the establishment of a fund targeted specifically at purchasing services on an individual need basis, including trauma support.
  7. **Consider what priorities and actions need to be taken to improve the services provided to victims and witnesses of crime.** SAMM NI has concerns with the compensation process and the legislation around making a claim for the Fatal Award and/or psychological trauma for siblings of murder victims. Our experience has been that there is little or no understanding of the psychological impact a murder has on surviving parents, children or siblings nor the detrimental impact of engagement with the compensation process, through having to prove that they loved their murdered sibling; or a denial because the death of a son stated by The Compensation Agency as not a crime of violence despite PSNI still investigating a murder; or the claimant has not been referred for counselling by GP despite trauma counselling difficult to access. SAMM NI understands when claimants are unable to gather the strength to appeal these decisions despite being in financial hardship. SAMM NI is uncomfortable with the recent changes to the criteria and would recommend that the Committee reviews the compensation process and the legislation on the criteria for families bereaved through murder and manslaughter.
  8. As the Committee has made clear it will take account of existing reports and research papers, SAMM NI draws the Committee Clerk’s attention to our book of storytelling “Love is a Memory No-One Can Steal”. Copies have previously been forwarded to the Chair and Deputy Chair of the Committee.
  9. In conclusion, SAMM NI thanks the Committee for undertaking this important Inquiry, and would welcome an invitation to expand on this written submission in one of the Committee’s evidence based sessions for victims and stakeholders.



## SAMM NI – Submission to Leveson Inquiry: Culture, Practice and Ethics of the Press

SAMM NI, Support After Murder and Manslaughter Northern Ireland, is the regional branch of the independently registered charity SAMM National, which offers free confidential help and vital peer support to families and close friends bereaved through murder or manslaughter. SAMM is involved in training, research, raising public awareness and increasing the understanding of agencies who work closely with the families. SAMM National has assisted in many reports, papers and television programmes, met with Members of Parliament and given evidence before a House of Lords Select Committee and at the House of Commons Home Affairs Committee.

SAMM NI was founded in 2006 and all our specially trained volunteers have themselves been bereaved through murder or manslaughter and are prepared to share their experience with others thrown into our situation. SAMM NI has given evidence to the Northern Ireland Assembly's Committee for Justice on traumatically bereaved families' experiences of the criminal justice process. Referrals are made to SAMM NI by PSNI Family Liaison Officers, Victim Support NI and by self-referral. SAMM NI has been involved in the training of the PSNI's Family Liaison Officers since 2006 and has given presentations to many agencies within the Criminal Justice System on the impact of losing a loved one through murder and manslaughter.

SAMM NI was very aware of the extra pressure and distress intense media attention and intrusion was causing the families, but needed factual independent evidence before calling for changes to the methods journalists were using to obtain interviews with the grieving families and also to campaign for improved press regulation in general. In 2010 SAMM NI commissioned The University of Ulster, Jordanstown to investigate this serious issue and produce the enclosed report on our behalf.

SAMM NI is calling for a Code which will see journalists:

- Recognise a family's fears that speaking to the media might prejudice a legal case;
- Refrain from intrusion at funerals, or "door-stepping" family members for information or interviews;
- Be honest and not mislead anyone in pursuit of an interview with a family member;
- Acknowledge it is not appropriate to attempt direct contact with families, but to use the official intermediaries, such as police Family Liaison Officers;
- Refrain from publishing unsubstantiated rumour and stick to known facts;
- If families grant an interview, ensure they have an opportunity before publication to satisfy themselves with the factual accuracy of stories, without prejudice to the editorial independence of the publication;
- Seek approval for the use of all photography relating to the loved one and the circumstances of their death;
- Not publish distressing photographs, such as the removal of a loved one's remains in a body bag;
- Warn families if there is an intention to run stories or photography relating to the death of their loved one, weeks, months and years later.

SAMM NI would suggest that more accessible and detailed information on handling the media and how to complain be included in Bereavement Guides given to families after a murder. Some of the families SAMM NI support felt alone and unable to complain about the press

attention, others did complain to editors but were deeply disappointed with the responses and if an apology was printed it received no prominence in the next edition of the newspaper

SAMM NI is also calling for the appointment of a Press Ombudsman for Northern Ireland. Families here feel the Press Complaints Commission only monitors the press in Great Britain. A local Ombudsman would give families great comfort.

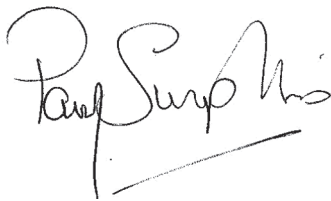
The Ombudsman could also ensure ethics are included in all journalism training, and that journalists are offered and avail of on-going refresher courses.

SAMM NI welcomes this opportunity to present our report and suggestions for change and looks forward to Lord Justice Leveson's findings in due course.

**Statement of Truth**

I believe the facts stated in this witness statement are true.

Signed:

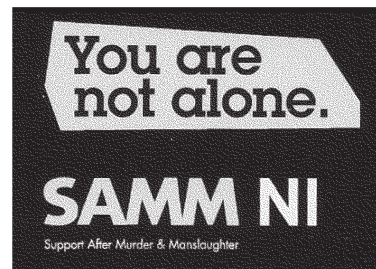
A handwritten signature in black ink, appearing to read "Paul Surp". The signature is written in a cursive style with a horizontal line underneath.

Date: 28th January 2012

## Appendix 1

# **An Exploration of Media Reporting of Victims of Murder and Manslaughter in Northern Ireland**

A Research Report for SAMM NI by University of Ulster



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## **Acknowledgements**

The researchers were humbled to be asked to undertake this important and unique piece of research and at the outset we would like to thank all the families who participated in this study. At no time did we underestimate the emotion and difficulty involved by each of you telling your story. We would also like to thank Pam Surphlis of SAMM NI for her unwavering enthusiasm and support for this research to be undertaken.

Great care has been taken to protect the anonymity of the families who participated in the study. The report that follows are the views and thoughts of the families as told verbatim to us. We hope the content of the report may go some way to ensuring that the media rethink their approach in how they report on cases of murder and manslaughter in the future.

## Executive Summary

The primary aim of this study was to explore how the media report on victims of murder and manslaughter in Northern Ireland. Two methodological approaches were employed in order to realise this primary aim. Indeed, the study utilised a research framework which drew heavily on a qualitative approach for data gathering. When considered collectively the data provides an insight into the experiences of bereaved families on how the media reported on the death of a loved one.

This study has investigated two key issues. First of all it identifies and examines the relationship between newspaper journalists and the victims' families. Secondly, it explores the impact of media reporting on family members of those bereaved through murder and manslaughter in Northern Ireland. It emerged from the study that the participants felt that the media were intrusive and insensitive in their approach which exacerbated the trauma felt by the families of losing a family member.

The tactics employed by the journalists to make contact with the families was a fundamental issue that emerged from the interview findings and one that each of the families had various experiences of. Some respondents voiced the opinion that the journalists were extremely persistent; some felt they had been deceived while other respondents noted the journalists were just ruthless in their approach to them. None of the families interviewed voiced a positive experience during the initial contact with journalists and indeed commented that the insensitive nature of the journalists approach added further upset to them at this already distressing period in their lives.

The impact of this reporting on the families' lives was difficult and upsetting. The families reported feeling a variety of emotions stemming from their experiences with the news media. Overall, these emotions had quite negative connotations with the families reporting feeling 'used', 'powerless' and with some more extreme descriptions of feeling 'besieged' and 'neglected'.

It is suggested that journalists reporting on these sensitive cases need to need to adopt a more humane approach when interacting with the bereaved families and they must take much greater care in what they report, ensuring that the information is accurate to prevent further distress. A number of salient points emerged regarding issues of consent, permission and respect and overall the



families agreed that there should be some form of Code of Practice for journalists to follow.

Whilst the authors acknowledge that the Press Complaints Commission has since issued guidance for families on dealing with attention from the media after the death of a loved one, the research findings contained herein suggest that this guidance does not go far enough and is reliant on the journalists re-evaluating how they interact with the bereaved families. However, it is ambiguous what measures will be put in place to ensure that this will happen. Therefore, it is unclear at this stage how effective this guidance will operate in practice.

## Background to Research and Introduction

Public fascination with crime and justice continues to grow; this is partly because most people have limited direct contact or experience with these matters and rely on media reports to gain their knowledge (Jewkes, 2004). Many studies have identified that crime reporting is particularly 'newsworthy'<sup>1</sup> and a 'staple' of the media machine (Ericson *et al.*, 1991; Williams and Dickinson, 1993; Jewkes, 2004; Marsh and Melville, 2009), with the news media selecting, defining and explaining events that comprise 'the news' (Eldridge, 1995 cited in Jemphrey and Berrington, 2006). Currently much academic work has been concerned with how certain 'categories' of offenders are portrayed by the media, such as women (Wykes and Gunter, 2004), children (Marsh and Melville, 2009), and even the elderly (Collins and Bird, 2006). There has however only been a little academic work undertaken on how victims of crime are portrayed by the mass media (see Wardle, 2007 and Marsh and Melville, 2009). This glaring omission of work on the portrayal of victims could partly be explained by the fact that crime news prior to the 1980s focused on offenders, but increasingly in recent years there has been more emphasis on victims (Katz, 1987, cited in Greer 2010) which parallels the increasing centrality of victims in the criminal justice system, criminology and even crime fiction (Cumberbatch and Howitt, 1989).

Wherever a victim exists a crime has been perpetrated and crime stories are the biggest sellers across the media, in films on television, in the Press, and in books. If it 'bleeds it leads' is often an accurate description of the way in which news is deemed as newsworthy. The idea of the victim is compelling and television ratings and newspaper sales often rely upon the regularly gruesome descriptions of victims of crimes. However, the media offer highly variable levels of sympathy for victims reflecting the specific context of their deaths, often distinguishing between a 'deserving' and 'undeserving victim', with the former 'deserving' the label of victim, for example a child, whilst a death in custody may be represented as an 'undeserving' victim and thus undeserving of public sympathy.

Much journalistic practice is routine, with stories sought and reported in accordance with pre-constructed news templates, only the names, dates or locations change. The resultant outcome of such reporting is that journalists all too often produce easy explanations or simplistic ironies too quickly to

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<sup>1</sup>Newsworthiness is a term that encapsulates the perceived public appeal or public interest of any potential news story. Newsworthiness is determined by news values; that more news values a potential story conforms to, the more newsworthy it is perceived to be (Jewkes, 2011:285).

summarise violent acts, with the industry accused of lacking in patience and humility (Cote and Simpson, 2000). To overcome this Buchanan (1987) suggests that journalists should adopt a more 'humane' style of reporting, this style of reporting requires a new set of assumptions about the family who suffer the trauma and new thinking about how to apply these ideas to the staple work of journalism. The most important of these assumptions is that traumatized families have become different people emotionally. If news practices take trauma into account their stories could actually help the families of victims (Cote and Simpson, 2000). There is little doubt that better reporting about trauma can help readers gain empathy for the suffering of victims and their families and enrich everyone's awareness of the powerful role that trauma plays in peoples' collective lives.

It is against this background that SAMM NI (Support After Murder and Manslaughter, Northern Ireland) commissioned the University of Ulster to undertake a study on how the media report on victims of murder and manslaughter in Northern Ireland. The outputs of this research have produced empirical evidence on the style of newspaper reporting that exists around sensitive and traumatic events and what the families of those victims think about the current style of reporting on victims of murder and manslaughter. This enhances our understanding of the relationship between journalists and victims' families and has also yielded recommendations on how these sensitive stories should be reported to minimise further trauma to the families of victims. These recommendations are in addition to the guidance published by the Press Complaints Commission (PCC) earlier this year on dealing with attention from the media after the death of a loved one (PCC, 2011). As mentioned previously newspapers and magazines regularly publish stories about people who have died, particularly if the death has happened in unusual circumstances as these stories are particularly 'newsworthy', they are generally entitled to do so, provided that they abide by the terms of the Editors' Code of Practice. However, media interest can cause distress to those grieving families. The new practical guidance that has been issued forms an attempt by the PCC to ensure the interests of members of the family are protected. Copies of this guidance are available online at <http://www.pcc.org.uk/news/index.html?article=NzE5OQ> and also available in appendix 1 of this report. Importantly too, the local members of SAMM requested that this research was commissioned because they want to tell *their* story, and to be involved in helping shape robust guidelines for how journalists should treat and interact with the families of victims of murder and manslaughter. This study is unique and innovative and adds significant knowledge to an under researched area.

## Research Approach

### Aim and Objectives

The aim of this research was to explore how the media report on victims of murder and manslaughter.

This study has investigated two key issues. First of all it identifies and examines the relationship between newspaper journalists and the victims' families. Secondly, it explores the impact of media reporting on family members of those bereaved through murder and manslaughter in Northern Ireland.

The key objectives were:

1. To review literature on newspaper reporting of crime, specifically on how victims are represented
2. To undertake a thematic content analysis of newspaper reporting of murder and manslaughter in Northern Ireland
3. To examine the relationship between newspaper journalists and the victims' families through the voices of the familial experience
4. To uncover how families of victims feel about how the media report on cases of murder and manslaughter
5. To utilise the findings to make further recommendations on how these sensitive stories should be reported to minimise further trauma to the families

### Methods

The research involved a variety of research techniques including:

- Conducting a literature review of academic and other sources
- Undertaking a thematic content analysis of newspaper reporting on cases of murder and manslaughter to provide context for the research
- Primary research in the form of semi-structured interviews with a sample of the victims' families.

Recruitment for the victims' families was undertaken through SAMM NI. An advertisement was placed in the SAMM NI support magazine asking for

participants who would be willing to take part in the research. A sample of those who responded to the advert and who were willing to volunteer to become involved in the study were contacted in writing by the researchers. Participants were provided with an information sheet; interview schedule, list of support groups and a consent form.

In addition to the interviews, newspaper reports were provided by the participants which helped to contextualise the study. Thematic analysis of these reports<sup>2</sup> plus the participant's interview responses led to the identification of a number of substantive themes which are developed throughout the remainder of this report.

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<sup>2</sup> We have deliberately not included the headlines or content of the reports in this study to protect the anonymity of the families.

## Substantive Themes

As mentioned in the preceding section a number of clear identifiable themes emerged from the analysis of the interviews and from the newspaper reports.

These were:

- The initial contact the family had with the journalists
- The content of the newspaper reports
- Recommendations and guidelines for journalists who report on these sensitive cases

### Initial contact the family had with journalists

This theme is concerned with how the journalists initiated contact with the families. Overall the participants felt that the media were intrusive and insensitive in their approach which exacerbated the trauma felt by the families of losing a loved one. How the journalists made contact with the families was a fundamental issue that emerged from the interview findings and one that each of the families had various experiences of. Some respondents noted that the journalists were extremely persistent; some felt they had been deceived while other respondents noted the journalists were just ruthless in their approach to them. None of the families interviewed voiced a positive experience during the initial contact with journalists and indeed commented that the insensitive nature of the journalists approach added further upset to them at this already distressing period in their lives. The quotations below summarise the feelings of the families interviewed. They demonstrate that the journalistic approach must be radically altered as to how bereaved families are approached by the news media.

*Every time we went in and out of the gate they were huddled there screaming at us...*

*They started to bombard me at home with phone calls...looking for an interview*

*Someone from [local radio station] posed as a member of public to get information he 'put himself as someone who knew us*

*He told my granny he was a friend of the family and said I'm here for your family, what happened?*



The new PCC guidelines appear to have taken account of the aforementioned issue as they stipulate that journalists must not engage in harassment and in cases involving personal grief journalists must approach the grieving family with sympathy and discretion. This clearly places the responsibility on the journalists to adopt a mature and sensitive attitude in attempting to secure a 'story'. If the family do not wish to speak to reporters the PCC advise that an email should be sent to them to help to prevent further unwanted approaches from the Press (PCC, 2011). However, it is also acknowledged by the researchers that distressed families would be unaware that they could take such action as they would have no reason to be familiar with how to deal with the media, or even what the role of the PCC is. Therefore if the family feel they have been treated unfairly by the media then SAMM NI could provide guidance on how to report the specific journalist or newspaper to the PCC.

### **The content of newspaper reports**

Within the broader theme of the content of newspaper reports a number of distinct sub-themes emerged which require separate attention. These include the sensationalisation of the tragic events, inaccuracies regarding the victim and/ or their family, inappropriate published photographs or images and the families' experience of the media content.

#### *Sensationalisation*

Many of the families voiced their shock and embarrassment at how the circumstances of such a tragedy could be sensationalised. They felt that this detracted from the circumstances of the incident and left them feeling powerless and that their wishes and interviews had been abused by the journalists. Two of the most commonly expressed words were 'salacious' and 'cheap' and it was suggested that sensationalisation will help to make a report on death more 'newsworthy'.

The following quotations from the respondents highlight the aforementioned troublesome issue of sensationalisation.

*[They picked] out the juiciest bits to sensationalise*

*I refused to buy [the newspapers] because of the salacious crap...every day of the trail it was made out, highlighted, pinpointed.*

*Too much emphasis is placed on getting the story – newspapers out to sell newspapers – so many assumptions made; you are inclined to believe what the newspaper has written*

*People believe what they read*

*If the death had been attributed to conflict or paramilitaries there would have been more media coverage, but because it wasn't, there wasn't.*

*The style of reporting was very impersonal*

*It's just that you feel kind of stupid, you sort of feel that you are cheapening the whole episode because you are talking to a newspaper about it. Maybe that's because we are like that but I felt cheap and I felt that I shouldn't be doing this and then the police came in and we were surrounded by people we didn't want to be surrounded by it was constant all the time it never let up*

*The headlines are just crazy some of the headlines read like Agatha Christie*

#### *Inaccuracies*

Overall there were some discrepancies between the families on how accurately the media reported on the death of their family member. Generally families either thought that the media reporting was 'fairly accurate' or a completely inaccurate portrayal. With regard to the former, a few of the families were satisfied that the information they had given to the journalists was accurately presented in the newspaper. However, many more families commented that many inaccuracies were printed; these included the family details of the victim, their age, and even their background. The printing of such inaccurate information was particularly distressing for the families and the researchers feel that greater care must be taken by journalists to ensure that simple factual information is accurately represented.

The following quotations serve to illuminate the discrepancies regarding the accuracy of media reporting.

*I would say that nine times out of ten if not ten out of ten these reports are taken and someone else does the writing I think that is where the insensitivity comes in they don't double check with the person who took the notes and they could say*

*well I'm not really sure about this wee bit so I'll just make this bit up without realising that an inaccuracy can be really upsetting*

*The inaccuracies made me mad. When people rung up I said I didn't want to hear it. It was so terrible the way that things had happened that I just felt I couldn't take anymore. It was very distressing, people who have phoned and said I just want to warn you, don't lift the paper*

*What was in the paper was fairly accurate and I know they didn't have all the details because he did a whole lot more...than what was printed. And I'm glad they didn't go into detail that way*

*If the family have provided an interview it should be given to them before it is printed because accuracy is everything nobody has the guts to challenge them and they think they can get away with it*

According to the PCC Editors' Code of Practice, the Press must take care not to publish inaccurate, misleading or distorted information (PCC, 2011). That said, the researchers feel that greater care must be adopted by the journalists to prevent inaccurate information being published, especially because this is something that is very easy to get 'right' if the families have taken the time to provide the information in the first place.

#### *Images*

This sub-section is concerned with the imagery contained within the media reports. The main areas of contention reported by the family members was the harassment they suffered in the journalists' quest to obtain pictures of the grieving family; the lack of permission to publish pictures, or awareness that the pictures were going to be published in the papers and the upset that this caused.

*She took the photo at the grave which I took exception to because...I just felt like you know we weren't those type of people we didn't like sensationalism and it made us feel cheap I just felt it cheapened us as a family, I thought it made it look like we were yobby types getting our photo taken anywhere, it was done to sensationalise it and I thought it was awful.*

*Even whenever the church doors opened there was a mass of snapping went on*

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*Whenever we were coming out of the church they were there standing across the road and the next day there were photos in the paper*

*Look at those photographs, they are disgusting. We didn't even know they were being taken and the next day our phone never stopped with people ringing up in fury*

*I gave them one photo – I don't know where they got the rest*

*[The photo] showed [the victim] being brought out of the house in a body-bag*

*I don't want to open my paper and see someone lying dead*

In order to safeguard family members from harassment by reporters attempting to take pictures of the deceased or their family, the new PCC guidelines state that journalists must not engage in intimidation, harassment or persistent pursuit; they must not persist in...pursuing or photographing individuals once asked to desist; nor remain on their property when asked to leave and must not follow them (PCC, 2011). If requested they must identify themselves and whom they represent. It is hoped that this guidance will go some way to ensuring that other families will not be subjected to the same insensitivity.

#### *Experiences*

The families reported feeling a variety of emotions stemming from their experiences with the news media. Overall, these emotions had quite negative connotations with the families reporting feeling 'used', 'powerless' and with some more extreme descriptions of feeling 'besieged' and 'neglected'. Furthermore, the following quotations also highlight the impact that the media intrusion had on the family during what was already a particularly stressful and upsetting period.

*A part of me didn't want to read them but I became bloody obsessive with buying every single newspaper I could find to see if there was anything in it to see what lies they were telling this time. I would rather see for my self than have someone say to me did you see such and such because someone would read it and maybe take a different slant on it, so I needed to see things for myself but they did compound the hurt and really, really devastate the family*

*Every bit of the house was locked*

*They need to be more accurate, they give themselves a bad name. Then they hound you and just shove the mic in your face. They lie and they've no call to lie. They just make everything so much harder.*

*The other paper portrayed the offender as a great guy with picture of him with a smiling face. That was the hardest, I was so cross – I wrote and said why? There was no consideration and no response*

*My name was never mentioned and I was never once asked for an interview. I was just a sibling, I didn't count*

### **Recommendations and guidelines for journalists**

One essential component of this research was to discover how the journalists and bereaved families interacted with one and other. From this interaction, the researchers felt it fundamentally important that those families should be afforded a voice in how journalists and the news media generally should deal with traumatic and sensitive news reports. As mentioned in the Introduction to this report and prior to this research being concluded the PCC did issue guidance on dealing with attention from the media after the death of a loved one. However, this research suggests this recently published guidance does not go far enough from the viewpoint of the family members. Additional suggestions and recommendations for how the journalists should engage with bereaved family members are illustrated in the following quotations.

A number of salient points emerged regarding issues of consent, permission and respect. Overall the families agreed that there should be some form of Code of Practice, however, the guidance published, as mentioned earlier, fails to take into account some of the following suggestions. The researchers feel the guidance should reflect some of these concerns and comments to mitigate the sense of trauma that the families will already be experiencing during this difficult time.

*Yes a code of practice...I think if journalists contacted the police through the family liaison officer and that police officer contacted the family and asked if they wanted to talk to the Press ...but I think if that there some sort of code of practice of something a way of working to standard but then journalists will break it anyway but if we don't try...*

*I don't honestly think they need to interview families at all why not just say this tragedy has happened to this family and report the facts under the circumstances of the death has occurred and that's it, why do families, why do we have to talk about it*

*I think they should contact the likes of us [family] about whether we want anything reported or not rather than just put it in. But it's not good that they contact you immediately because you aren't thinking anyway, but maybe down the line to have the option, but I would have to say they have never bothered me. But I know some people would have problems where they are getting to them and things like that*

*The way the journalists report this is completely all wrong. I was the next of kin, because we didn't want any publicity, we know who the person was and we know what their wishes would have been and he would not have wanted that rubbish told to the paper. There should be guidelines and it should be what the next of kin want. Immediate family should have a say of what goes in the paper*

*There needs to be an ongoing relationship with the family, they [journalists] shouldn't be as abrupt and nasty, if the editor Okays the story, the family should get a copy – we're in the 21<sup>st</sup> century, all they have to do is email it. The Press should be asking if it is okay to publish stories and pictures*

*Let people see it before it is printed*

*Families [should be] given an opportunity to decide whether they want anything in the papers, [and] to what extent*



## Conclusions

As described in the Introduction to this report crime reporting is a 'staple' of the media machine, this is because reports concerning death, particularly in sudden, or unusual circumstances are particularly 'newsworthy'. However at the centre of such tragic circumstances are a bereaved family, who are experiencing a particularly distressing and upsetting time in their lives. The findings of this research suggest that journalists in many cases need to be much more sensitive and humane in their approach and dealings with the families and they must take much greater care in what they report, ensuring that the information is accurate to prevent further heartache. As noted earlier by Cote and Simpson (2000) if news practices take trauma into account their stories could actually help the families of victims because the better reporting about trauma can help readers gain empathy for the suffering of victims and their families and will increase everyone's awareness about the powerful role that trauma plays in peoples collective lives.

The families who were interviewed as part of this research process undoubtedly had varying negative experiences of journalists and the media in general and it is not the intention of this report to criticise the media machine as a whole, rather it serves to highlight that the journalists and news media need to take much greater cognisance of the fact that reporting on cases of murder and manslaughter, the bereaved families have become different people emotionally and are attempting to deal with shock, immense upset, and intrusion into what are normally their very private lives.

Whilst we acknowledge that the PCC has since issued guidance for families on dealing with attention from the media after the death of a loved one, the research findings contained herein suggest that this guidance does not go far enough and relies heavily on the journalists re-evaluating how they interact with the bereaved families. It is unclear what measures are put in place to ensure that this will happen. Furthermore, some of the suggestions proposed by the families interviewed may be usefully incorporated to this guidance as they themselves have already had firsthand experience of dealing with such media attention, and are best placed to make a valuable contribution to these new guidelines.

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# Skills for Justice

**Briefing for the Justice Committee of  
Northern Ireland**

**SKILLS for JUSTICE**  
*Developing skills for safer communities*

*16 February 2012*



## Introduction

Skills for Justice are the Sector Skills Council for Justice, Community Safety and Legal Services. As such, their footprint includes some nineteen thousand workers in Northern Ireland and over a million people across the UK. These include the Police Service of Northern Ireland, Northern Ireland Fire and Rescue Service, Northern Ireland Prison Service, and various offender, victim and community safety services. Skills for Justice are a trusted and integral part of the workforce and professional development of justice sector employers.

Skills for Justice develop both National Occupational Standards (NOS) and qualifications for the Justice sector. These NOS and qualifications are a benchmark for ensuring a continued skilled justice sector in Northern Ireland.

## Northern Ireland Operational Objectives

Within the year 2011-2012 Skills for Justice NI Team have worked towards the following operational objectives:

- Help employers to use National Occupational Standards and role profiles to analyze the skills needed for new or expanded roles
- Help employers to reduce duplication and increase efficiency by developing collaborative learning
- Help employers to use our functional maps to identify overlaps, and to use National Occupational Standards to develop collaborative learning
- Implement action learning and other development programmes for managers across the sector to meet shared challenges e.g. managing change, managing performance, financial management
- To help increase Victim and Witness satisfaction with the criminal Justice System

## Key Partners to Skills for Justice

The following organisations have been key partners to Skills for Justice:

- |   |   |
|---|---|
| ■ Department of Justice (DOJ)                           | ■ Probation Board Northern Ireland (PBNI)             |
| ■ Police Service of Northern Ireland (PSNI)             | ■ Public Prosecution Service Northern Ireland (PPSNI) |
| ■ Northern Ireland Prison Service (NIPS)                | ■ EXTERN  |
| ■ Northern Ireland Fire and Rescue Service (NIFRS)      | ■ Victim Support Northern Ireland                     |
| ■ Northern Ireland Courts and Tribunal Services (NICTS) | ■ Women's Aid   |
|   | ■ NIACRO  |
|   | ■ Belfast Harbour Police                              |
|   | ■ Youth Justice Agency (YJA)                          |

## What We Do:

### For our employers

Our unique position as a Government-licensed Sector Skills Council (SSC) and not-for-profit organisation means that we are fully committed to quality skills provision with employers'

needs at the heart of everything we do. Our established relationships with employers across the UK help us to understand the key challenges they face. Understanding these challenges enables us to develop 'families' of solutions tailored to their needs.

## For Individuals

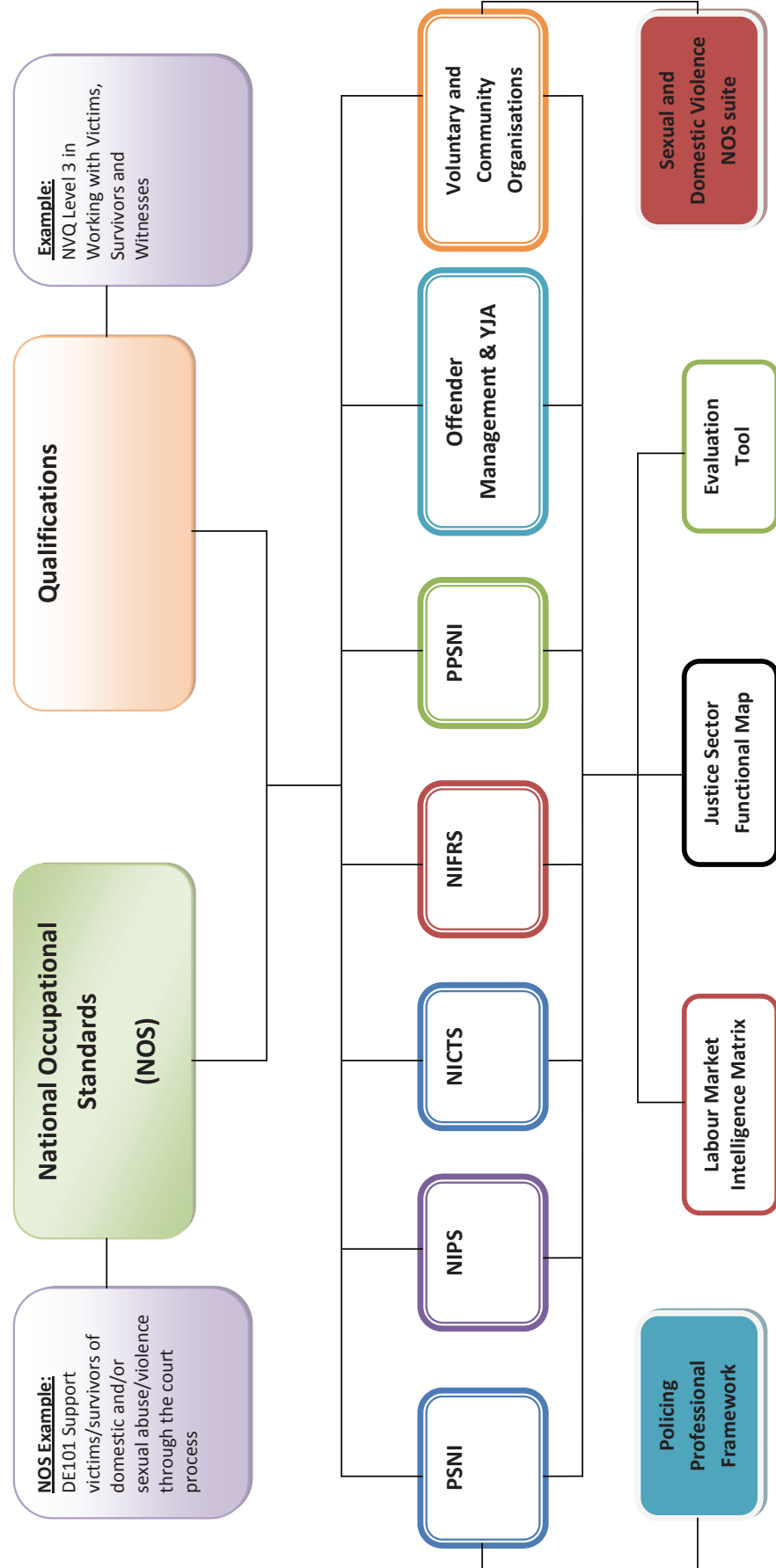
Skills for Justice can support individuals who seek to develop their careers within the Justice, Community Safety or Legal Services sectors, or who are looking for information on the range of careers available in these areas.

## For Learning Providers

Our primary purpose for working with learning providers is to help them to develop and deliver learning programmes that meet employer demand. Our products and services support learning and development across the sector.



Review of Products and Services Provided by Skills for Justice





## Victims and Witnesses Qualifications

### Qualifications and Credit Framework (QCF)

#### **N/SVQ in Working with Victims, Survivors and Witnesses Level 3**

This qualification is designed for staff and volunteers in statutory and not-for-profit agencies who work directly with, and provide support to, victims, survivors and witnesses of crime.

#### **N/SVQ in Working with Victims, Survivors and Witnesses Level 4**

This qualification is designed for staff and volunteers in statutory and not for profit agencies who work directly with, and provide support to, victims, survivors and witnesses of crime

#### **Level 3 NVQ Certificate in Witness Care**

This qualification is applicable to workers in witness care units which can include staff from the Police and Prosecution Service.

#### **Level 3 Award in Knowledge of Witness Care**

This qualification is designed for Witness Care Officers working within Witness Care Units. It is applicable to both Crown Prosecution Service (CPS) staff and Police staff working within this area.

#### **Level 3 SVQ Community Justice: Work with Victims, Survivors and Witnesses**

This qualification is designed for staff and volunteers in statutory and not for profit agencies who work directly with, and provide support to, victims, survivors and witnesses of crime.

#### **National Occupational Standards**

Functional Map for Sexual and Domestic Violence

We produced an Occupational Map in 2009. The map identified the challenges faced by individuals working with victims and witnesses of crimes and the skills and competencies required to provide a good service to them.

#### **National Occupational Standards for Sexual and Domestic Violence**

Skills for Justice has developed this suite of NOS which benchmarks best practice for workers involved in preventing and tackling domestic and sexual abuse and violence. There are currently 63 National Occupational Standards within this suite.

#### **National Occupational Standards for Providing Independent Sexual Violence Advice and Advocacy**

The National Occupational Standards suite for Sexual and Domestic Violence is currently used by Independent Sexual Violence Advisors. However, we have completed a Functional Map and recently had a new suite of National Occupational Standards, specifically tailored to this role, approved.

The Independent Sexual Violence Advice and Advocacy suite of NOS provides independent, holistic, practical and emotional support, advice and advocacy to victims and survivors of sexual violence and abuse, whether they engage with the criminal Justice system or not.

#### **National Occupational Standards for Community Justice**

The Community Justice suite of NOS covers those working in community safety and crime prevention, prevention of offending and re-offending, supervision of offenders in the community, community-based rehabilitation projects, and services for victims, survivors and witnesses. PLEASE NOTE - Refer to the Community Justice NOS (2006) versions for use in

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S/NVQs. Refer to the Community Justice NOS (2010) versions, for all other uses. There are currently 149 National Occupational Standards within this suite.

### **National Occupational Standards for Witness Care**

This suite of NOS aims to establish details and contact regarding new or repeat victims and witnesses, to undertake their needs assessments, and to notify victims and witnesses of the outcomes of their case and address their reactions. There are currently 10 National Occupational Standards within this suite.

### **National Occupational Standards for Mentoring and Befriending**

This suite of NOS is for mentoring and befriending practitioners who provide support, often on a one-to-one basis, to others often to help such people through difficult times. Mentoring and befriending activities involve the provision of support, guidance and/or advice.

There are currently 48 National Occupational Standards within this suite.

### **National Occupational Standards for Restorative Practice**

This suite of NOS is designed to be used by practitioners working in a number of settings including justice, education, health, and in the community. The standards cover all the functions relating to restorative practice processes including assessment, preparation, facilitation and evaluation, co-working and informal restorative processes. The standards are based on the Best Practice Guidance for Restorative Practitioners (2004).

There are currently 10 National Occupational Standards within this suite.

### **National Occupational Standards for Public Protection**

This suite of NOS establishes the core role of public protection working across the various agencies involved in public protection within the Justice sector. The management of risk and public protection is a high profile feature of the Justice sector across the UK, with critical impact for those parts of the sector most affected, in particular police, probation service and the prison service.

There are currently 48 National Occupational Standards within this suite.

## **Apprenticeship Framework**

### **Advanced Apprenticeship in Witness Care**

This framework has been designed to help attract new entrants, up skill existing staff and develop clear progression pathways in Witness Care. This level 3 framework is aimed at Witness Care Officers working in Witness Care Units in Prosecution and Police Services.

### **Skills Needs Analysis: Key Findings Report**

In August 2011 Skills for Justice produced a report for the Department of Justice, showing the responses to a "Skills Needs Analysis" conducted in 2010 across Justice Organisations in Northern Ireland. The report focused on the staff and volunteers who work directly with victims and witnesses across the Northern Ireland Criminal Justice System. The aim of the skills needs analysis was, firstly, to identify the skills and knowledge that staff and volunteers who work directly with victims and witnesses should possess in order to perform relevant tasks competently. Secondly, to ask staff in relevant roles to indicate whether they had the skill/knowledge or were currently developing them to identify areas in which "developing this skill/knowledge would help me in my work".

In presenting this report, Skills for Justice emphasised that it is a skills needs analysis not a training needs analysis. It should form the basis for further discussion of the priorities for skills development, and the best ways of achieving this, including training within and across organisations.

# Victim Support Northern Ireland

## 1.0 Introduction

- 1.1 Now in its 30th year, Victim Support Northern Ireland (NI) is the independent local charity supporting people who have been affected by crime. We offer community and court based services to anyone affected by crime, irrespective of when the crime happened, the motivation for the crime or if it has been reported to the police. The organisation is governed by a board of local volunteer Trustees.
- 1.2 Victim Support NI has five community offices spread across Northern Ireland. Our community based service helps those affected by crime to deal with its personal and practical impact, by providing emotional support, information and advice. We also have witness rooms in every criminal court across Northern Ireland. Last year, we supported 13,000 people affected by crime.
- 1.3 We currently have 213 volunteers who provided a total service delivery of 23,309 hours last year to people affected by crime. In the same year, the criminal injury compensation service helped over 2,000 victims of crime successfully claim £4.5 million in criminal injuries compensation.
- 1.4 Victim Support NI is also a full member of Victim Support Europe, a confederation of Victim Support organisations across Europe.

## 2.0 Comments

- 2.1 Victim Support NI welcomes the opportunity to assist the Committee for Justice in their inquiry into the criminal justice services available to victims and witnesses of crime in Northern Ireland. We are aware there are separate strategies for sexual violence and domestic violence and welcome the work being undertaken currently to combine the two. We understand the next strategy for victims and witnesses deals with all categories of crime apart from domestic and sexual violence. However in extending the committee's invitation to victims we are in contact with to give evidence, we have not made this distinction as many issues are cross cutting.

### **The effectiveness of the current approach and services provided by criminal justice agencies to victims and witnesses of crime**

- 2.2 Our view of the effectiveness of the current approach and services provided by criminal justice agencies is fundamentally based on the experience of victims and witnesses and on our own experience of supporting these individuals over the last 30 years.
- 2.3 One measure which has been used by government to gauge the effectiveness of the criminal justice system is the recorded satisfaction rates of individuals who have been affected by crime. The main source of this information has been the Northern Ireland Victim and Witness Survey (NIVAWS) which was commissioned by the Northern Ireland Office (NIO) in 2008. This survey was introduced for two purposes. Firstly, as a means of monitoring progress against various actions outlined in the 'Bridging the Gap' strategy document and secondly, to monitor performance against the key performance indicator (KPI) outlined in the 'Justice for All' Delivery Agreement:  
  
'To increase the proportion of victims and witnesses who are satisfied with the contact they have with the criminal justice system'
- 2.4 For the year 2010-11, the satisfaction rate received for this KPI was 71%, which exceeded the target satisfaction level set by the Department of Justice for this period. Although the NIVAWS survey has the advantage of tracking satisfaction rates over the last three years since its inception, there are a number of limitations which Victim Support NI believes need

to be taken into consideration. Firstly, there are a number of categories of crime which are ineligible for inclusion within the survey. These offences include sexual offences, crimes which have involved a fatality and domestic violence.<sup>1</sup> Victim Support NI acknowledges cold call telephone interviews may not be the most appropriate method to capture the experiences of victims of such crimes however, it is vitally important that their experiences are listened to and recorded in a sensitive and appropriate manner.

- 2.5 Victim Support NI would also like to bring to the Committee's attention that the satisfaction rate for victims (who are the injured party) has been considerably lower than that recorded for witnesses (who have observed a crime) since recording began in 2008. For a breakdown of the satisfaction rates for victims and witnesses, please refer to Appendix 2. The latest publication of NIVAWS indicates victim satisfaction was 64% whereas witness satisfaction was 77%. This should be borne in mind as the satisfaction rate used to measure the Department's KPI is an average of the two separate rates, the most recent figure being 71%.
- 2.6 It is also worth noting that this overall satisfaction level is an indicator of the collective level of satisfaction of the contact victims and witnesses have had with the criminal justice system as a whole. We therefore cannot glean further information in terms of the level of satisfaction with individual criminal justice organisations and agencies. It is our view that the standard of service provided to victims and witnesses of crime varies from agency to agency as individuals travel through the system. This variation in the standard of service also differs depending on the type of crime experienced. Victim Support NI believes each criminal justice organisation should have a separate target of victim and witness satisfaction.
- 2.7 We understand the budget for the NIVAWS survey has been withdrawn for the next year and would seek assurance that an alternative method of capturing the experiences of victims and witnesses will be introduced as a matter of priority. There needs to be a more systematic and consistent collation of the experiences of victims and witnesses across every stage of the criminal justice system. We believe this should be recognised as a key measure of quality of the criminal justice system in Northern Ireland. Furthermore, we recognise the need for more Northern Ireland based research into victims' and witnesses' experiences.
- 2.8 Victim Support NI acknowledges that there have been a number of positive steps made in the last number of years through the first strategy, by key criminal justice agencies providing services to victims and witnesses of crime. These have included the publication of a Code of Practice for Victims of Crime, the creation of a 'walk through' website for victims and witnesses and the introduction of the Justice Act 2011 which has allowed for additional provisions such as assistance to vulnerable and intimidated witnesses to give their best evidence in court.
- 2.9 These developments are a step in the right direction however Victim Support NI believes they are no less than how individuals affected by crime expect and deserve to be treated. We believe that the developments to date within the criminal justice system run the risk of being seen as a "bolt on". More is still needed to shift the attitude which would result in an improvement of how victims and witnesses are supported and treated. There are also issues of consistent and appropriate policy and guidance across structures which result in different experiences by locality despite policy and guidance being for Northern Ireland as a whole.
- 2.10 Currently there is a collection of separate organisations and agencies, the sum of which is called the criminal justice system. Victim Support NI recognises the importance for certain agencies to have autonomy and independence however a victim or witness trying to navigate their way through this system can find it very difficult and complex. Indeed, this would be an unreasonable expectation to place on a victim or witness. Therefore, we believe there should be a 'care pathway' for all individuals travelling through the criminal justice system. An important aspect of which would be the provision of individually tailored support and advocacy through the early and on-going identification of individual need. However such a service will

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1 For a full list of offences ineligible for inclusion with the NIVAWS survey please see Appendix 1

only be of benefit to victims and witnesses if the organisations provide timely, relevant and accessible information.

2.11 Victim Support NI believes that the changes needed to the criminal justice system will not be fixed solely by the introduction of more policies and procedures. It is the individual interaction with victims and witnesses that make the difference and this will take more of a behavioural change within organisations as a whole. The underlying motivations of all the agencies of the criminal justice system should be to provide victims and witnesses with appropriate support in order for them to give their best evidence.

2.12 Victim Support NI believes that it is difficult to truly assess the effectiveness of the criminal justice system due to the lack of relevant information. To truly gain an accurate picture of how the system is performing, services should be viewed from those approaching the system rather than those who live within the system. By adopting a systems thinking approach, we can highlight the failure and value demands of a system from the perspective of the customer, in our case the victim and witness. This approach will establish where victim and witness needs are truly being met and identify any failure in the system.

2.13 In summary Victim Support NI is calling for:

- The experience of victims and witnesses across the criminal justice system to be systematically and consistently collated and recognised as a key measure of the quality of the criminal justice system in Northern Ireland.
- Any organisation changing procedures within the criminal justice system should be required to consider and demonstrate the impact on victims and witnesses. For example, a victim impact assessment.
- All criminal justice agencies should be required to demonstrate commitment through their strategic and business planning processes to the continued improvement of the experience of victims and witnesses. It should be seen as integral to the core business of the organisation rather than as a parallel agenda.
- All developments in the criminal justice system with regards to victims and witnesses should be evidence based and where evidence does not exist the initiative should be trialled and evaluated in Northern Ireland.
- The aim should be to ameliorate the effects of crime and in doing so meet the needs of victims and witnesses on an individual basis. This will require information and support as part of their engagement with the criminal justice system but in more complex cases, may require input from other services including health, housing, social care and other parts of the voluntary sector.

**Identify the key issues impacting on the experiences of victims and witnesses of crime of the criminal justice system and any gaps in the services provided**

2.14 Victims of crime are individual and therefore all will have varying needs specific to their situation. However previous research has consistently found a number of common needs of victims of crime and our experience of providing support to these individuals validates this. The table below illustrates the four key themes of need, highlighted by Professor Brian Williams, and also shows examples from our own experience.

Key Theme	Victim Support's experience
Dignity, fair and respectful treatment	<p>From our experience, treating victims with dignity and respect is the responsibility of every individual providing a service within the criminal justice system. Furthermore, we believe treating victims and witnesses with dignity and respect should be integral to the ethos and behaviours of every criminal justice organisation.</p> <p>Treating an individual fairly, with dignity and respect we believe, is a natural result of carrying out a role with emotional intelligence. Seeing a victim of crime as a customer and valuing each interaction with them. Victim Support NI believes this emotional intelligence is lacking somewhat from the system.</p> <p>When asked what they thought needed changed in the system, this rape victim explained, "What I think needs changed is that victims need to be seen as humans with real feelings and emotions. The best thing that could change is attitudes towards victims."</p>
Timely and appropriate information	<p>From our research and work with victims, we believe this theme of timely and appropriate information, is one of the things they most want from the criminal justice system. From being kept informed and updated about the progress of their case, to information about crime prevention and further support. This requires excellent communication skills to ensure relevant and appropriate information is relayed in a manner which is understandable to the individual receiving it.</p> <p>We believe that all communication with victims of crime should be done in a way which is personable and tailored to the individual's level of literacy, language and capacity to understand. We also believe individuals should be afforded the opportunity to ask for clarification and receive this clarification in a reasonable amount of time. We believe that communicating in this way could reduce the amount of time and money spent on follow up correspondence.</p> <p>Victims often experience confusion as to what to expect from the criminal justice system. Not only are they dealing with the impact of the crime, they also have to navigate through a system which from a victim's perspective, can seem complex and overwhelming. Victim Support NI believes delay within the system is a key issue impacting on the experiences of victims and witnesses. Long delays with an investigation or case can often have an impact on the individual's recovery, especially if they require further therapeutic intervention.</p> <p>Very often individuals become increasingly frustrated and despondent when more and more time passes with no contact or information from the relevant criminal justice agency. A lack of information can often make victims feel that their case is not being taken seriously when often the reality is the exact opposite.</p> <p>One individual explained how she waited for eight months from the time she reported the incident to receiving a letter in the post stating that her case would not progress any further. She said, "It wasn't so much the period of time I waited but rather the lack of contact which made me feel like I wasn't important." Furthermore, recent feedback from police officers who have been involved in carrying out the 'Victim Update Process' (a new initiative being piloted by the police) challenges the myth that victims only want to hear good news about their case.</p> <p>One officer said, "I initially thought I was going to be letting the victim down because I had no more information [on the case] but in fact I think the victim was reassured that they had not been forgotten about." Another officer stated, "The person was very pleased that I had at least remembered about them even though the news was not good."</p>



Key Theme	Victim Support's experience
<p>Timely and appropriate information (continued)</p>	<p>Another key issue which Victim Support NI believes falls under this theme of need is regarding the provision of special measures for vulnerable or intimidated individuals. We believe there is a general lack of awareness surrounding special measures provisions for example their eligibility, usage and who is responsible for applying on behalf of the vulnerable or intimidated individual. We believe it is essential that victims and witnesses are afforded the assistance they require in order for them to give their best evidence in a manner that causes them the least distress.</p> <p>Victim Support NI welcomes the announcement of the Intermediaries service to assist vulnerable victims and witnesses but would caution that the success of such a role will be dependent on the awareness and skills of organisations front line staff to identify and respond appropriately to victim and witness need.</p>
<p>Practical help, including protection from further victimisation and compensation</p>	<p>From our work with victims of crimes, it is clear that they do require practical help including protection from further victimisation and compensation. For example, we have provided support and advice to a number of victims of criminal damage. One individual had over two thousand pounds worth of damage done to their property. Not only did this individual have the responsibility of paying for the damage themselves, they lived in fear of further victimisation from the offender.</p> <p>Another individual who was a victim of criminal damage and harassment explained how she had suffered a violent attack on her home by a group of young men. She said, "We rang the police and they came out. I was in a terrible state. I said to the constable, what am I going to do with broken windows in the middle of the night? [The police officer] shrugged their shoulders and said they had to go as there was another emergency. They left me standing with my two youngest boys-offered no assistance whatsoever. I was petrified of them coming back. I thought if it was the other way around I wouldn't have walked away."</p> <p>From our experience, many individuals would report the financial impact of the crime on their lives. Criminal injury compensation therefore assists victims alleviate any financial impact of the crime. The issue of delay can impact on this aspect of a victims experience as very often, it can take up to eighteen months for the first decision of the compensation process. During this time, the individual affected has to cope with the additional financial impact of the crime which can add to an already stressful time.</p> <p>Victim Support NI also believes the compensation process can provide a means by which an individual affected by crime, can have their experience recognised. Very often, this process is the only form of participation for the individual affected by crime, in the criminal justice system.</p>
<p>In some cases, counselling or support to address the emotional impact of the offence (or help in dealing with the criminal justice system)</p>	<p>From our work with victims, in some cases the individual in question will require further emotional support from us and in certain cases will require professional counselling to help them cope with the effects of the crime.</p> <p>This need can often be overlooked and there can be a lack of understanding or consideration of the impact of the crime and the subsequent impact of engagement with the system. We believe the needs of victims and witnesses can be better identified and met, if ameliorating the effect of crime becomes a priority not just what is required to maintain the injured party as a witness.</p> <p>Many victims also experience waiting lists for counselling services in some areas which can also impact on the recovery of that individual from the impact of the crime.</p>

**Consider what priorities and actions need to be taken to improve the services provided to victims and witnesses of crime**

2.15 Victim Support NI believes the overall goal should be to ameliorate the effect of the crime on the individual. This includes individually tailored support for the victim as they travel through

- 
- the criminal justice system. They should be afforded all necessary consideration to ensure they are equipped to give their best evidence. We believe there needs to be a behavioural change within the system as a whole, with organisations demonstrating more emotional intelligence in their interactions with victims and witnesses. We believe this change in behaviour should not interfere with organisations and individuals carrying out their job.
- 2.16 Victim Support NI believes a key priority is the monitoring of the actual experiences of victims and witnesses and that changes are made to the criminal justice system on an on-going basis based on these experiences.
- 2.17 Victim Support NI believes each organisation should demonstrate year on year, their commitment to improving the experience of victims and witnesses. Furthermore, we believe each organisation should be committed to causing no further harm to individuals affected by crime. This should become integral to their core business and be demonstrated through its inclusion in their strategic and business plans and through their leadership. Overall however the benefit will be achieved not from 'add on' policies and procedures but through a change in attitude, demonstrated through behaviour.
- 2.18 We believe that a systems thinking approach may help ensure all agencies contributing to the process have their responsibilities completed on time and to the correct standard. We believe the minimum requirement should be that the criminal justice system does not add to the harm already caused by the crime itself.
- 2.19 Victim Support NI believes victims should be afforded better support and information from their initial contact with the system to when this ends. Victim Support NI believes the introduction of the Independent Sexual Violence Advisors (ISVAs) and the Independent Domestic Violence Advisors (IDVAs), along with further development of its own advocacy role will contribute to this. Part of this end to end support should also be the establishment of Witness Care Units to both assess need and provide information to those attending any criminal trial before, during and after hearings.
- 2.20 From our own experience of working with victims of crime, we believe there should be more support and effort made within the system to establish an accurate picture of attrition. Another priority would be an effort to address the issues which lead to attrition within the criminal justice system. The introduction and implementation of ISVAs and the IDVAs should therefore be of high priority for the criminal justice system.
- 2.21 From our experience delay between the incident and the trial is a major priority and we welcome the efforts being made presently to tackle this problem. However we believe any solutions implemented to alleviate this problem should be carried out without threat to due process. We also believe the issue of delay should be addressed from the moment the individual reports the crime right through to disposal.
- 2.22 From our experience participation in the criminal justice process is an important aspect to a number of victims. For many it is important that they are afforded the time to express, in their own words, how the crime has impacted on their life. We therefore welcome the steps taken to date to scope the usage of Victim Impact Statements/Reports as one means of participation. It must be noted however that the purpose of any initiative introduced as a means of victim participation, needs to be clearly explained and the expectation of the impact of such participation needs to be strictly managed and understood.
- 2.23 We also believe the criminal justice system, as a priority should continue to develop restorative practice which protects the interests of victims. Appropriately conducted restorative practice can provide answers to common questions that victims have after a crime.
- 2.24 Victim Support NI welcome plans to introduce the Sexual Assault Referral Centre (SARC) and this provides the perfect opportunity to plan from the perspective of the needs of victims of crime. However we believe the SARC must include planned community services if victims of sexual violence are to be provided with the information they need.
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2.25 Finally, we believe there should be an end to oral evidence in committal hearings as this procedure only serves to cause further stress and trauma to victims.

**Identify and analyse alternative approaches and models of good practice in other jurisdictions in terms of policy interventions and programmes**

2.25 Victim Support NI would like to bring to the Committee's attention, the process of engagement with citizens which the Department of Justice and Equality in the Republic of Ireland adopted when developing its *White Paper on Crime*.<sup>2</sup> This White Paper aims to provide an overall high level statement of Government policy and to provide a framework for policies to prevent and combat crime. The Department consulted widely on this paper, holding public meetings with specific stakeholder groups, for example victims, older citizens, young people and ex-offenders.

2.26 Victim Support NI believes that the system as a whole needs to build on the first steps that the Lord Chief Justice's Office and the Public Prosecution Service are taking to develop outreach programmes to engage with the public. We would commend and encourage further outreach and engagement with the public.

**3.0 Conclusion**

3.1 Victim Support NI believes that the citizens of Northern Ireland should be able to view the criminal justice system as fair and just for all. Therefore the fundamental tenet of the system of the rights of the accused to be assumed innocent until proven guilty, should not impact on the respect and dignity afforded to the victim in the investigation and prosecution of a crime.

3.2 We believe that the changes we are advocating for are achievable with minimal, if any, need for additional resources. The systems thinking approach highlighted in our discussion earlier may even highlight areas where savings could be made.

**Appendix 1**

**Eligible and ineligible offence categories for the purposes of NIVAWS**

Offences eligible for inclusion	Offences ineligible for inclusion
Violence against the person	Drugs offences
Theft/handling stolen goods	Sexual offences
Burglary	Crimes involving a fatality
Robbery	Domestic violence
Criminal damage	Motoring offences
Offences against the state	Fraud and forgery
	All other offences

**Appendix 2**

**Satisfaction Rates for Key Performance Indicator Question in NIVAWS by Year**

Year	08/09	09/10	10/11
Victim Satisfaction	62%	65%	64%
Witness Satisfaction	70%	70%	77%

2 The Department of Justice and Equality White Paper on Crime Process: [http://www.justice.ie/en/JELR/Pages/White\\_Paper\\_on\\_Crime](http://www.justice.ie/en/JELR/Pages/White_Paper_on_Crime)

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# Women's Aid Federation Northern Ireland

## Core Work of Women's Aid: Background Information & Statistics

### 1.0 Introduction

Women's Aid is the lead voluntary organisation in Northern Ireland addressing domestic violence and providing services for women and children. We recognise domestic violence as one form of violence against women. Women's Aid seeks to challenge attitudes and beliefs that perpetuate domestic violence and, through our work, promote healthy and non-abusive relationships.

### 2.0 Core Work of Women's Aid

The core work of Women's Aid in Northern Ireland, including Women's Aid Federation Northern Ireland and the 10 local Women's Aid groups is:

- To provide refuge accommodation to women and their children suffering mental, physical or sexual abuse within the home.
- To run the 24 Hour Domestic Violence Helpline.
- To provide a range of support services to enable women who are leaving a violent situation to rebuild their lives and the lives of their children.
- To provide a range of support services to children and young people who have experienced domestic violence.
- To run preventative education programmes in schools and other settings.
- To educate and inform the public, media, police, courts, social services and other agencies of the impact and effects of domestic violence.
- To advise and support all relevant agencies in the development of domestic violence policies, protocols and service delivery.
- To work in partnership with all relevant agencies to ensure a joined up response to domestic violence.

### 3.0 Women's Aid Statistics (2010 - 2011)

- 12 refuges with 300 bed spaces, playrooms and facilities.
- 1058 women and 754 children sought refuge.
- 15 resource centres for women seeking information and support; group work and training.
- 3,450 women and 3,739 children accessed the Floating Support service enabling women to access support whilst remaining in their own homes and communities.
- Move-on houses for women and children leaving refuges.
- In 2010/11 the 24 Hour Domestic Violence Helpline, open to anyone affected by domestic violence, managed 38,296 calls. This represented an increase of 18% on 2009/10.

### 4.0 Additional Women's Aid Statistical Data

- Since 1999, Women's Aid across Northern Ireland gave refuge to 14,714 women and 14,356 children and young people.
- During the last 16 years Women's Aid Federation Northern Ireland managed 282,860 calls to the 24 Hour Domestic Violence Helpline.

## **5.0 Statistics: Domestic Violence & Violence Against Women**

- Domestic violence is a violation of Article 5 of the UN Universal Declaration of Human Rights – that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”;
- The joint NIO, DHSSPS Strategy “Tackling Violence at Home” estimates that the cost of domestic violence in Northern Ireland, including the potential loss of economic output, could amount to £180 million each year.
- UNICEF research released in 2006, showing per capita incidence, indicates that there are up to 32,000 children and young people living with domestic violence in Northern Ireland.
- Where the gender of the victim was known, 76% of adult victims of domestic crimes recorded by the PSNI in 2010/11 were female.\*
- Over 30% of all domestic violence starts during pregnancy. \*\*

## **6.0 Domestic Violence: Crime Statistics**

- Domestic Violence is a crime. PSNI statistics for 2010/11 indicate that there were more recorded crimes with a domestic motivation (9,546) than the combined total of all the following crimes (9,471). These include all recorded sexual offences (2,120), robbery (622), armed robbery (562), hijacking (122), theft or unauthorised taking of a motor vehicle (2719), arson (1884) dangerous driving (699), handling stolen goods (194) and offences under anti-terrorism legislation (19).
- PSNI Statistics for 10/11 indicate that they responded to a domestic incident every 23 minutes of every day of the year.
- The total of 9,546 crimes with a domestic motivation in 10/11 represents an average of approximately 1 domestic crime every 60 minutes in Northern Ireland.
- The number of all recorded offences of murder in Northern Ireland in 10/11 total 20. Those classed as having a domestic motivation total 7. Therefore, 35% of all murders in Northern Ireland in 10/11 had a domestic motivation.
- There were 550 rapes (including attempted Rapes) in Northern Ireland in the period 2010/11.

*(Source: PSNI Statistics 2010/11)*

- Official sources (NISOSMC) estimate that up to 80% of sex crimes are not reported.
- Violence Against Women is not limited to domestic violence, it includes amongst other crimes murder, rape, sexual assault, sexual exploitation, trafficking, sexual stalking and sexual harassment.

(\*Findings from the PSNI Crime Statistics Report 2010/11 N.B. “Adult” defined as aged 18 and over)

(\*\* Women’s Aid Federation NI)

## **7.0 Comments**

7.1 Women’s Aid Federation NI welcomes the opportunity to assist the Committee for Justice in their inquiry into the Criminal Justice Services available to victims and witnesses of crime in Northern Ireland. The following comments reflect the collective views of our ten local groups and are structured in accordance with the Terms of Reference of the Inquiry.

## **8.0 The Effectiveness of the Current Approach and Services provided by Criminal Justice Agencies to victims and witnesses of crime**

8.1 Our organisation’s views on the effectiveness of the current approach and services provided by Criminal Justice Agencies to victims and witnesses of crime are based upon more than

- three decades supporting women and children who have experienced domestic violence and is a reflection of their and our interactions with the criminal justice system in Northern Ireland.
- 8.2 Women's Aid would wish to preface our comments by acknowledging a number of positive developments in recent years in respect of the overall approach and services afforded to victims and witnesses. In particular the introduction of Multi Agency Risk Assessment Conferences (MARAC) for high risk victims of domestic violence, the Justice Act 2011, which facilitated the introduction of vital provisions including the assistance to vulnerable and intimidated witnesses to give best evidence in court and the publication of a Code of Practice for Victims of Crime, although we are disappointed that the Code is not on a Statutory footing.
- 8.3 We would however suggest that a number of these initiatives including the creation of a "walk through" website for victims and witnesses should be more widely publicised and where necessary any additional training requirements for agency staff, should be urgently addressed. Similarly, our local Women's Aid groups have reported that in some cases important initiatives, including the Dedicated Domestic Violence Prosecutors Network, lack a clear process of outreach and engagement with organisations such as our own across all areas of Northern Ireland.
- 8.4 We share with our colleagues in Victim Support NI, a number of concerns in respect of the Northern Ireland Victim and Witness Survey (NIVAWS), which is one measure utilised by Government to gauge the effectiveness of the criminal justice system.
- 8.5 The survey was introduced to perform two important functions, specifically to monitor progress against the actions outlined in the "Bridging the Gap" strategic document designed to address the needs of victims and witnesses of crime in Northern Ireland and to make the link with service delivery and additionally, to monitor performance against the key performance indicator (KPI) which was outlined in the "Justice for All Agreement", namely, "To increase the proportion of victims and witnesses who are satisfied with the contact they have with the criminal justice system."
- 8.6 We note that for the year 2010-11, the satisfaction rate received for this KPI was 71%, which exceeded the target satisfaction level set by the Department of Justice for this period. However, it is a source of considerable concern to Women's Aid that a number of categories of crime that are ineligible for inclusion within the survey.
- 8.7 These offences include domestic violence and sexual offences as well as crimes which involve a fatality. Whilst we agree with Victim Support NI that it is not appropriate to capture the experiences of victims of these crimes using a cold call telephone survey, the failure to listen to and to record their experiences represents a serious omission in our view.
- 8.8 Women's Aid would strongly recommend to the Committee that potentially appropriate methodologies for recording the experiences of these victims, in a sensitive manner should be fully explored. Our organisation would welcome the opportunity to engage further on this matter.
- 8.9 We would also wish to join with Victim Support NI in bringing to the Committee's attention that the satisfaction rate for victims (who are the injured party) has been considerably lower than that recorded for witnesses (who have observed a crime) since recording began in 2008. The latest publication of NIVAWS indicates victim satisfaction was 64% whereas witness satisfaction was 77%. This should be borne in mind as the satisfaction rate used to measure the Department's KPI is an average of the two separate rates, the most recent figure being 71%.
- 8.10 This overall satisfaction level is an indicator of the collective level of satisfaction of the contact victims and witnesses have had with the criminal justice system as a whole. It is therefore not possible to glean further information in terms of the level of satisfaction with individual criminal justice organisations and agencies. It is the view of Women's Aid and our



professional experience that the standard of service provided to victims and witnesses of crime varies from agency to agency as individuals travel through the system.

- 8.11 Women's Aid recommends that each criminal justice organisation should have a separate target of victim and witness satisfaction and share that view that there needs to be a more systematic and consistent collation of the experiences of victims and witnesses across every stage of the criminal justice system. Women's Aid believes this should be recognised as a key measure of the quality of the criminal justice system in Northern Ireland.
- 8.12 We are also of the view that there is a pressing need for more Northern Ireland based research into victims' and witnesses' experiences. Similarly we continue to strongly advocate for systems to be put in place to accurately record repeat victimisation and patterns of offending, particularly in respect of crimes such as domestic violence.
- 8.13 It is in this context that our organisation is deeply concerned to learn that the budget for the NIVAWS survey for the next year has been withdrawn. It is essential in our opinion, that an alternative method of capturing the experience of victims and witnesses is introduced as a matter of priority.
- 8.14 Women's Aid considers that it is vital that best practice is established in respect of victims and witnesses and that a consistent approach is adopted both in terms of policy and practice across all agencies. For example, the embedding of Women's Aid workers in five Public Protection Units has proven to be very beneficial and represents good practice and as such should be rolled out across Northern Ireland. We remain concerned that there continues to be a geographical lottery in respect of these vital services.
- 8.15 Similarly, whilst many of the women who use our services report positive engagement with representatives from criminal justice agencies, too often they continue to encounter staff that lack sensitivity and can be dismissive or confused in respect of the most appropriate support services available.
- 8.16 The importance of these interactions cannot be underestimated. Harsh and insensitive treatment and inaccurate, confusing or delayed information can result in victims and witnesses feeling exhausted and frustrated. It is also undoubtedly a contributory factor to the rates of attrition in the criminal justice system, with individuals choosing to withdraw from the process. It can additionally contribute to a sense of having been re-victimised. There is also a pressing need for the establishment of clear and concise communications protocols within the criminal justice system as all too often there appears to be considerable confusion as to whose responsibility it is to communicate important information and decisions to the victim.
- 8.17 Whilst recognising the importance for agencies to have autonomy and independence a victim or witness trying to navigate their way through this system can find it extremely difficult and complex. Indeed, this would be an unreasonable expectation to place on a victim or witness. Therefore, Women's Aid believes that there should be a 'care pathway' for all individuals travelling through the criminal justice system. An important aspect of which would be the provision of individually tailored support and advocacy through the early and on-going identification of individual need. However, we agree that such a service will only be of benefit to victims and witnesses if the organisations provide timely, relevant and accessible information.
- 8.18 Further, we believe that to truly gain an accurate picture of how the system is performing, services should be viewed from those approaching the system rather than those who live within it and that this perspective must be embedded into any review or evaluation of services.

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**9.0 Identify the key issues impacting on the experiences of victims and witnesses of crime of the criminal justice system and any gaps in the services provided**

- 9.1 Women's Aid fully supports the view that every victim of crime is an individual and as such their care and support should be tailored to meet their needs.
- 9.2 There are however a number of similarities in respect of the concerns expressed by women using our services. One of the key issues consistently raised is the position, status and dignity of the victim in the overall process.
- 9.3 Often they feel subsumed by the criminal justice system, rather than being an active participant. This is frequently compounded by the lack of timely and accurate information and feedback being supplied to them.
- 9.4 Additionally, there can be an assumption that a victim and/or witness is able to recognise and understand the key components of the criminal justice system. This is not always the case. In addition to those who face the challenges of a learning disability, we have provided support to women, who have not understood the basic roles and functions of the Public Prosecution Service for example.
- 9.5 Others have reported being confused by the use of legal terminologies and the failure to fully and clearly explain decisions. Women also frequently report a sense of exhaustion resulting from the strain of having to navigate what is an extremely complex system which is beset with delays many of which would appear to be avoidable.
- 9.6 We believe that all communication with victims of crime should be done in a way which is personable and tailored to the individual's level of literacy, language and capacity to understand. We also believe individuals should be afforded the opportunity to ask for clarification and receive this clarification in a reasonable amount of time. We believe that communicating in this way could reduce the amount of time and money spent on follow up correspondence.
- 9.7 Women's Aid would contend that there is considerable merit in formally and legally recognising the status of the victim in criminal proceedings and ensuring that specific rights and entitlements follow from this.
- 9.8 In keeping with Victim Support NI, Women's Aid believes that the provision of special measures for vulnerable or intimidated individuals falls under the theme of key issues impacting on the experiences of victims and witnesses of crime. We further share the view that there is a general lack of awareness surrounding special measures provisions for example their eligibility, usage and who is responsible for applying on behalf of the vulnerable or intimidated individual. We also believe it is essential that victims and witnesses are afforded the assistance they require in order for them to give their best evidence in a manner that causes them the least distress.

**10.0 Consider what priorities and actions need to be taken to improve the services provided to victims and witnesses of crime**

- 10.1 Women's Aid would wish to associate ourselves with the following observations and comments by Victim Support NI specifically, the belief that the overall goal should be to ameliorate the effect crime on the individual. This includes individually tailored support for the victim as they travel through the criminal Justice system. They should be afforded all necessary consideration to ensure they are equipped to give their best evidence.
- 10.2 Our organisation agrees that a key priority is the monitoring of the actual experiences of victims and witnesses and that change should be made to the criminal justice system on an on-going basis based on these experiences.
- 10.3 Further, each organisation should demonstrate year on year, their commitment to improving the experience of victims and witnesses.

- 10.4 Each organisation should be committed to causing no further harm to individuals affected by crime. This should become integral to their core business and be demonstrated through its inclusion in their strategic and business plans and through their leadership. Overall however the benefit will be achieved not from 'add on' policies and procedures but through a change in attitude, demonstrated through behaviour.
- 10.5 We support the belief that the minimum requirement should be that the criminal justice system does not add to the harm already caused by the crime itself.
- 10.6 We share with Victim Support NI, the belief that victims should be afforded better support and information from their initial contact with the system to when this ends.
- 10.7 Women's Aid supports the introduction of Independent Domestic Violence Advisors (IDVAs) and of Independent Sexual Violence Advisors (ISVAs) and sees this as a positive development in the support available to victims of domestic and sexual violence in Northern Ireland.
- 10.8 It is also our organisations experience from working with women and children who have and are experiencing domestic violence that there should be more support and effort made within the system to establish an accurate picture of attrition. Another priority would be an effort to address the issues which lead to attrition within the criminal justice system.
- 10.9 We are also of the view that delays between the incident and the trial is a major priority and we welcome the efforts being made presently to tackle this. We understand that the length of time from crime to trial is longer on average in Northern Ireland than in England and Wales.
- 10.11 Women's Aid welcomes plans to introduce the Sexual Assault Referral Centre (SARC) and this provides the perfect opportunity to plan from the perspective of the needs of victims of crime. However we also believe that the SARC must include planned community services, in consultation with existing organisations, if victims of sexual violence are to be provided with the information and support they need.
- 10.12 Additionally, we are concerned by the potential travel implications and possible delays which may be caused by the location of the SARC and would request that this be monitored closely going forward.
- 10.12 We are also concerned that our staff report that Victim Impact Statements are seldom taken in cases involving domestic violence. These statements should be taken as a matter of routine.

#### **11.0 Identify and analyse alternative approaches and models of good practice in other jurisdictions in terms of policy interventions and programmes**

- 11.1 Women's Aid would wish to draw the Committee's attention to the excellent work being carried out by the Specialist Domestic Violence Court in Glasgow, Scotland as a model of best practice which could be adapted and adopted in Northern Ireland.
- 11.2 Our organisation would also wish to highlight the process of engagement with citizens which the Department of Justice and Equality in the Republic of Ireland adopted when developing its *White Paper on Crime*.<sup>1</sup> This White Paper aims to provide an overall high level statement of Government policy and to provide a framework for policies to prevent and combat crime. The Department consulted widely on this paper, holding public meetings with specific stakeholder groups, for example victims, older citizens, young people and ex-offenders.
- 11.3 Women's Aid would also commend to the Committee the use of forensically trained nurses in the Republic of Ireland, who are able to come to a victim's home if necessary. This is particularly helpful in cases of sexual violence.

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1 The Department of Justice and Equality White Paper on Crime Process:  
[http://www.justice.ie/en/JELR/Pages/White\\_Paper\\_on\\_Crime](http://www.justice.ie/en/JELR/Pages/White_Paper_on_Crime)

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**12.0 Conclusion**

12.0 Women's Aid strongly believes that the care and support of victims and witnesses of crime must be a central component of the criminal justice system in Northern Ireland. Victims must be afforded the dignity and respect they deserve and should be accorded fundamental rights which allow them to progress through the system in a manner which avoids compounding the trauma they have already experienced and enhances their ability to give best evidence.





Northern Ireland  
Assembly

Appendix 4

# Northern Ireland Assembly Research Papers





- 1 The Status of Victims in the Criminal Justice System
- 2 Victims and Witnesses in the Criminal Justice System: Good Practice
- 3 Statutory Requirements of Criminal Justice Agencies in Northern Ireland regarding Victims and Witnesses
- 4 Supplementary Briefing Paper on Victims and Witnesses – obstacles on getting cases to court; Police Domestic Violence Pilot Schemes; and Witness Care Units.
- 5 Victim Impact Statements
- 6 Supplementary Briefing Paper on Victims and Witnesses and the Community



Northern Ireland  
Assembly

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Research and Library Service  
Research Paper

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28 October 2011

**Fiona O'Connell and Gareth Mulvenna**

# The Status of Victims in the Criminal Justice System

This paper provides information on the role of the victim in the criminal justice system and the pathway experienced by victims in the criminal justice system. The paper also provides information on studies by the Department of Justice and other agencies which provide insights on the experiences of victims in the criminal justice system.

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## Key Points

The criminal justice system (CJS) in Northern Ireland is an adversarial system which traditionally has primarily been concerned with resolving disputes between the State and the defendant. This paper highlights there has been an increasing emphasis on victims in academic literature and policy making at the domestic and international level.

In Northern Ireland there have been a number of policy and legislative developments aimed at improving the experiences of victims and witnesses in the CJS. These include a 1998 Code of Practice for victims and witnesses revised in 2010 by the Department of Justice.

This research paper shows that victims and witnesses may encounter a number of agencies at each stage of the criminal justice process. These stages include reporting and investigation, decisions to prosecute, the trial process, the sentencing process, after the trial, and compensation.

The Department of Justice and other agencies have conducted research in Northern Ireland which provide insights on the experiences of victims and witnesses in the criminal justice system. These include research conducted by Queen's University of Belfast and the National Society for Prevention of Cruelty to Children on the experiences of young witnesses in criminal proceedings.

There are International, European and EU texts relevant to victims and witnesses. Many of these international texts are not formally legally binding. The European Convention on Human Rights has been interpreted to protect some aspects of victims' rights. These convention rights are binding as a consequence of the Human Rights Act 1998.

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## Key Points

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      - 5.1.2 Indicators 2007 to present: Confidence in the fairness of the criminal justice system in Northern Ireland
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      - 5.1.5 Confidence in the criminal justice system: Victims and Non-Victims
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  - 6 International Human Rights Instruments and EU Law
  - 7 Conclusion
- Annex A - The Path through the Criminal Justice System

# 1 Introduction

Victims and witnesses play an important role in the criminal justice process. The Criminal Justice Inspection Northern Ireland (CJINI) highlight that the attendance of victims and witnesses in criminal cases is central to the efficient operation of the courts.<sup>1</sup> The Commissioner for Victims and Witnesses in England and Wales suggests that there are two important reasons for helping victims: first, there is a moral responsibility to help victims as the rule of law depends on victims not seeking revenge and allowing the state to prosecute the offence; and second, supporting the victim to come forward and give evidence is critical to preventing the offender from victimising others.<sup>2</sup>

Research indicates there has been a policy shift in the role of victims in the criminal justice system and that the interests of victims in recent years have been given greater emphasis in policy making in both domestic and international levels.<sup>3</sup> This paper considers the status of victims in the criminal justice system. It provides information on the pathway through the criminal justice system that may be experienced by victims and witnesses. The paper provides information on the different stages from the reporting of a crime to the police to the aftermath of a trial. The paper considers the role of the victim at each stage and the information and support available to them. The research shows that victims and witnesses may encounter a number of criminal justice agencies, statutory and voluntary at each stage of the criminal justice process.

## 2 Victims' Status in the Criminal Justice System

CJINI highlights that “the criminal justice system is ambivalent about the status of victims of crime.”<sup>4</sup> This is because the United Kingdom, including Northern Ireland, has traditionally had an adversarial process in criminal proceedings. The adversarial process means that the criminal justice system serves as forum to resolve disputes between the state and the defendant.<sup>5</sup> Within this historical context, there has emerged an increased interest in victims' issues. There has been a plethora of literature that highlights the increasing emphasis on victims in criminological study and policy making at both domestic and international level. It is suggested that the accommodation of victims within the criminal justice system comes from a range of sources including victims' advocates, victims' rights groups, politicians and criminal justice professionals tasked with responding to the needs of victims.<sup>6</sup> Commentators in the UK suggest that the increasing emphasis on victims in policy means that victims are more central to people's thinking on criminal justice and not merely regarded as a source of evidence.<sup>7</sup>

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- 1 CJINI “Securing Attendance at Court”, v. <http://www.cjini.org/CJINI/files/32/32538c06-054e-4371-918e-e9ff15f5e76b.PDF>
  - 2 Commissioner for Victims and Witnesses “The Poor Relation: Victims and Witnesses in the Criminal Justice System” 20 July 2010, 3. <http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/about/docs/victims-in-justice-system.pdf>
  - 3 J Doak “Victims' Rights in Criminal Trials: Prospects for Participation” 32 *Journal of Law and Society* 2005 ,294; JD Jackson “Justice for All: Putting Victims at the Heart of Criminal Justice?” 30 *Journal of Law and Society* 309
  - 4 Criminal Justice Inspection Northern Ireland (2005) “Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System in Northern Ireland”, 16, <http://www.cjini.org/CJINI/files/ce/ceda45b5-8b15-4f7b-a2a4-9dfe1902eca4.pdf>
  - 5 J Doak (2008) “Victims' rights, human rights and criminal justice : reconceiving the role of third parties” 1, Hart Publishing
  - 6 A Bottoms and JV Roberts (2010) “Hearing the Victim: Adversarial justice, crime victims and the State” xix, Willan Publishing, Devon.
  - 7 H Reeves and K Mulley “The New Status of Victims in the UK: Opportunities and Threats” in A Crawford and J Goodey “Intergrating a Victim Perspective within Criminal Justice: International Debates” 2000 Asgate Publishing Company, 125
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Academic literature indicates that victims' needs may fall into three categories. The first category is service needs which include compensation, proper treatment at court and assistance in testifying.<sup>8</sup> The second category of needs is expressive needs which include the victim having the opportunity to express themselves in particular stages of the criminal justice process. The third category of needs highlighted are participatory or decision-making needs, i.e. influencing decisions such as bail, sentencing and parole decisions.<sup>9</sup> It is argued however that the third category presents a threat to the adversarial system.<sup>10</sup>

### 3. Policy Developments in Northern Ireland

- The Northern Ireland Office developed a Code of Practice for victims of crime in 1998. The Code of Practice provided guidance to victims on what to expect at each stage of the criminal justice process.<sup>11</sup> The Code of Practice was later revised in 2010 by the Department of Justice to describe to victims how they should expect to be treated at each stage of the criminal justice process.<sup>12</sup>
- The Criminal Evidence (Northern Ireland) Order 1999 enables vulnerable or intimidated witnesses to avail of special measures in giving evidence in criminal proceedings such as the use of screens, removal of wigs and gowns, evidence by live link and video –recorded evidence.<sup>13</sup> A Five Year Strategy for Victims and Witnesses “Bridging the Gap” strategy which was published by the Northern Ireland Office in 2007 aims to improve services to victims and witnesses in developing enhanced services in five key areas:<sup>14</sup>
  - providing easier access to information;
  - providing timely and specific information;
  - recognise and respond to individuals' needs; and
  - providing victims and witness the opportunities to make their views known to criminal justice agencies.

Annual action plans have also been developed to deliver the victims and witnesses strategy. The 2011/12 Action Plan published by the Department of Justice includes a number of actions for the year to be delivered by responsible criminal justice agencies including:<sup>15</sup>

- Developing a model for Witness Care Units;
- Implementing the Code of Practice for Victims of crime and placing it on a statutory footing;
- To evaluate a pilot to reduce waiting times;
- Formalising practice regarding victim impact reports and impact statements and publishing a consultation.

Other policy developments from the Department of Justice in the last year include:

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8 A Bottoms and JV Roberts “Hearing the Victim: Adversarial justice, crime victims and the State”xix

9 A Bottoms and JV Roberts “Hearing the Victim: Adversarial justice, crime victims and the State”xix

10 A Bottoms and JV Roberts “Hearing the Victim: Adversarial justice, crime victims and the State”xx

11 Northern Ireland Office, “Consultation on a Revised Code of Practice for Victims and Witnesses of Crime” 3

12 Department of Justice “A Code of Practice for Victims of Crime”, [http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/code\\_of\\_practice\\_for\\_victims\\_of\\_crime.pdf](http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/code_of_practice_for_victims_of_crime.pdf)

13 Criminal Evidence (Northern Ireland) Order 1999, <http://www.legislation.gov.uk/nisi/1999/2789/part/II>

14 Northern Ireland Office “Bridging the Gap Between Service Needs and Delivery 2007-2012” , 15.16.[http://www.courtsni.gov.uk/NR/rdonlyres/1AC1C31A-40AE-4127-BB3C-942690F35DFC/0/pVW\\_BRIDGINGTHEGAPSTRATEGYpdf.PDF](http://www.courtsni.gov.uk/NR/rdonlyres/1AC1C31A-40AE-4127-BB3C-942690F35DFC/0/pVW_BRIDGINGTHEGAPSTRATEGYpdf.PDF)

15 Please note this is not an exhaustive list of actions, for further detail [http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/victim\\_and\\_witness\\_annual\\_action\\_plan\\_2011-12.pdf](http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/victim_and_witness_annual_action_plan_2011-12.pdf)

- Guidance for practitioners on Achieving Best Evidence;<sup>16</sup>
- Guidance on the criminal justice system for families bereaved through murder or manslaughter;<sup>17</sup>
- Guidance on the criminal justice system for victims of crime;<sup>18</sup>
- An Information handbook for adult victims of rape and sexual assault;

Measures in the Justice (Northern Ireland) Act 2011 to assist victims and witnesses including an offender levy which would be paid into a fund to pay for projects to support victims and witnesses; improvements to special measures provisions such as changes to eligibility for child witnesses, special provisions relating to sexual offences and changes to evidence by live link and video recorded evidence in chief.<sup>19</sup>

## 4 The Pathway through the Criminal Justice System

### 4.1 Reporting and investigation of a crime

The first time a victim may come into contact with the criminal justice system is in the reporting of a crime to the police. There are a number of ways a victim can report a crime:<sup>20</sup>

- By dialing 999 in an emergency;
- Calling into the local police station or ringing the police in non-urgent matters;
- Calling the Crimestoppers helpline number if the victim does not wish to give their name;
- A third party can report the crime if the victim does not wish to call the police.

When a victim reports the crime, the police will obtain a statement to ascertain what happened. This statement may take two forms, normally a written statement or in some circumstances video recorded evidence, particularly in the case of vulnerable or intimidated witnesses.<sup>21</sup> In some circumstances, the police may need to collect evidence from where the crime has taken place, or take photographs or fingerprints.<sup>22</sup>

The Code of Practice for Victims of Crime sets out the services the police will provide to victims of crime.<sup>23</sup> The police will:<sup>24</sup>

- Deal with victims and witnesses in a polite and fair way;
- Provide victims with an information leaflet;
- Pass contact details to Victim Support if the individual agrees;

16 [http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/achieving\\_best\\_evidence\\_-\\_practitioner\\_guidance\\_\\_may\\_2011\\_-2.pdf](http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/achieving_best_evidence_-_practitioner_guidance__may_2011_-2.pdf)

17 [http://www.dojni.gov.uk/a\\_guide\\_to\\_northern\\_ireland\\_s\\_criminal\\_justice\\_system\\_for\\_bereaved\\_families\\_and\\_friends\\_following\\_murder\\_or\\_manslaughter](http://www.dojni.gov.uk/a_guide_to_northern_ireland_s_criminal_justice_system_for_bereaved_families_and_friends_following_murder_or_manslaughter)

18 [http://www.dojni.gov.uk/a\\_guide\\_to\\_northern\\_ireland\\_s\\_criminal\\_justice\\_system\\_for\\_victims\\_and\\_witnesses\\_of\\_crime\\_-\\_26th\\_may\\_2010](http://www.dojni.gov.uk/a_guide_to_northern_ireland_s_criminal_justice_system_for_victims_and_witnesses_of_crime_-_26th_may_2010)

19 Justice (Northern Ireland) Act 2011, Chapter 1 and 2

20 Department of Justice "A Guide to Northern Ireland's Criminal Justice System for Victims and Witnesses of Crime" May 2010, 11.

21 Department of Justice "A Guide to Northern Ireland's Criminal Justice System for Victims and Witnesses of Crime" May 2010, 15.

22 Department of Justice "A Guide to Northern Ireland's Criminal Justice System for Victims and Witnesses of Crime" May 2010, 16.

23 Department of Justice "Code of Practice for Victims of Crime" 21 March 2011,3.

24 Department of Justice "Code of Practice for Victims of Crime" 21 March 2011,3-4.

- Write to victims within five days of reporting the crime to give the contact details of the investigating officer;
- Inform victims when someone has been arrested, been charged and the details of the defendant's first court of appearance;
- If after 3 months, and no-one has been identified for the crime, the police will contact the victim;
- In the case of murder or manslaughter or road death a Family Liaison Officer will be appointed to manage communication between the victim and the police investigation team;
- In the case of victims of child abuse or rape, the case will be investigated by a specialist team;
- Pass information on needs to the Public Prosecution Service in cases of vulnerable or intimidated witnesses to ensure continuation of support;
- Give necessary information to the Compensation Agency and issue certificates as soon as possible if applying for compensation.

As suggested in the Code of Practice, victims may be referred to Victim Support by the police if the person agrees. Victim Support provides a community service which provides practical help and information on a range of issues including dealing with the police, courts, legal professionals, and making compensation claims.<sup>25</sup>

#### 4.2 Decisions to Prosecute

The next stage of the criminal justice process for victims and witnesses is when the Public Prosecution Service (PPS) decides that there is enough evidence to prosecute an identified suspect. The PPS Code of Practice clearly specifies that they "serve the public in that it acts in the public interest. Whilst it does have responsibilities to victims, it is not the legal representative for victims of crime nor does it act as their legal adviser."<sup>26</sup> However it is useful to consider some of the responsibilities to victims when making the decision whether or not to prosecute. The PPS will write to victims in serious offences when they have received the police file.<sup>27</sup> When the PPS decides that there is enough evidence to prosecute, victims are notified of this decision and of the outcome of the prosecution in writing.<sup>28</sup> There are two tests used by the PPS when deciding whether to prosecute: the **Evidential Test** (which determines whether there is sufficient evidence adduced provide a reasonable prospect of conviction) and the **Public Interest Test** (whether the prosecution is in the public interest).<sup>29</sup> The PPS must also decide if prosecution at court is the most appropriate way to deal with the crime and may consider other options such as: an informed warning; a caution or a youth conference. If a decision is made that the appropriate course of action is a youth conference, a victim does not have to attend if they do not wish to do so. If a victim is willing to participate in a Youth Conference, they will be supported by a youth conference coordinator who will visit the victim at home to prepare them for the conference and will show a DVD on

25 Victim Support NI "Annual Report 2009-10" <http://www.victimsupportni.co.uk/userFiles/File/VS%20-%20Annual%20Report%2009-10%20V4.pdf>

26 Public Prosecution Service Northern Ireland "Code for Prosecutors including a Code of Ethics" , 25 [http://www.ppsni.gov.uk/Site/1/Documents/Publications/Code\\_for\\_Prosecutors\\_Revised\\_2008v1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Publications/Code_for_Prosecutors_Revised_2008v1.pdf)

27 Department of Justice "A Guide to Northern Ireland's Criminal Justice System for Victims and Witnesses of Crime" May 2010, 19

28 Department of Justice "A Guide to Northern Ireland's Criminal Justice System for Victims and Witnesses of Crime" May 2010, 19, see also Public Prosecution Service "Victims and Witnesses Policy", 26..[http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims\\_and\\_WitnessesPolicyv1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims_and_WitnessesPolicyv1.pdf)

29 Public Prosecution Service "Victims and Witnesses Policy", 9 [http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims\\_and\\_WitnessesPolicyv1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims_and_WitnessesPolicyv1.pdf)

a mock youth conference.<sup>30</sup> The victim of the offence can attend or participate by live link or phone or behind a two way mirror.<sup>31</sup> A Youth Conference will give the victim the opportunity to express how the crime has affected them and their family, to assess whether the offender regrets their actions and to ask for the young offender to apologise or pay compensation.<sup>32</sup>

If the PPS decides not to prosecute in a case, they will provide reasons. The reasons are normally provided in general terms indicating whether the decision was based on insufficiency of evidence or in the public interest. The PPS policy for victims and witnesses indicates that the general policy is considered in every case where a request for provision of detailed reasons is made.<sup>33</sup> Victims and witnesses may ask for a review if they disagree with the decision either directly or through a representative such as a family member, solicitor, support group or public representative.<sup>34</sup>

### 4.3 The trial process

The next stage in the criminal justice system for victims and witnesses is the trial process. There are a number of agencies victims and witnesses may come into contact with including the PPS, the Northern Ireland Courts and Tribunals Service (NICTS), other legal professionals including the judiciary, Victim Support or the NSPCC.

In some cases, defendants will plead guilty and therefore victims may not have to attend court to give evidence. In other cases where a defendant does not plead guilty, the victim of the offence may be called to give evidence.<sup>35</sup> In each PPS region, there is a team of specially trained staff to deal with victims and witnesses known as the Community Liaison Teams (CLT).<sup>36</sup> These teams assist in providing information to victims and witnesses, checking witness availability and in some cases making referrals to other organisations such as the NSPCC or Victim Support.<sup>37</sup>

The CLT also issue letters of notification to attend court, will organise suitable interpreters if English is not the first language of the witness or victim and make travel or accommodation arrangements for witnesses.<sup>38</sup> The PPS also work in conjunction with the NICTS where the person who is a victim or witness in a case has a disability, to make arrangements ensuring ease of access for wheelchair users or persons with other disabilities who need assistance.<sup>39</sup>

On the day of giving evidence, the prosecutor will introduce themselves and answer any questions. If a witness does not speak English, the PPS will provide an interpreter free of charge.<sup>40</sup> In the cases of vulnerable or intimidated witnesses, the PPS will apply to the court for special measures and may apply for the identity of victims and witnesses not to be revealed or reported in the press.<sup>41</sup> Special measures include screens to shield the

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- 30 Public Prosecution Service "Victims and Witnesses Policy", March 2007,11.[http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims\\_and\\_WitnessesPolicyv1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims_and_WitnessesPolicyv1.pdf)
- 31 Department of Justice "A Code of Practice for Victims of Crime", 21 March 2011,47
- 32 Department of Justice "A Code of Practice for Victims of Crime" 21 March 2011, 48
- 33 Public Prosecution Service "Victims and Witnesses Policy", 31.[http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims\\_and\\_WitnessesPolicyv1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims_and_WitnessesPolicyv1.pdf)
- 34 Department of Justice "A Code of Practice for Victims of Crime" 21 March 2011, 28
- 35 Department of Justice "A Guide to Northern Ireland's Criminal Justice System" May 2010, 24.
- 36 Department of Justice "A Guide to Northern Ireland's Criminal Justice System for Victims and Witnesses of Crime" May 2010, 19
- 37 Public Prosecution Service "Victims and Witnesses Policy", March 2007,3.[http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims\\_and\\_WitnessesPolicyv1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims_and_WitnessesPolicyv1.pdf)
- 38 Public Prosecution Service Victims and Witnesses Information Booklet, March, 2007 3.[http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims\\_and\\_Witnesses\\_Booklet%20-%20FINALv1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims_and_Witnesses_Booklet%20-%20FINALv1.pdf)
- 39 Public Prosecution Service "Victims and Witnesses Policy", March 2007, 11.[http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims\\_and\\_WitnessesPolicyv1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims_and_WitnessesPolicyv1.pdf)
- 40 Department of Justice "A Code of Practice for Victims of Crime" 21 March 2011, 29
- 41 Department of Justice "A Code of Practice for Victims of Crime" 21 March 2011, 28
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victim from the defendant; a live link to give evidence during the trial from outside the court; evidence given in private, removal of wigs and gowns by judges and barristers in the Crown Court; a video recorded interview before the trial for evidence in chief and the use of live link for evidence in cross examination; and aids to communication for example interpreters or symbol book or alphabet boards.<sup>42</sup>

Vulnerable witnesses include:<sup>43</sup>

- children under 17 years of age;
- witnesses who have a mental disorder;
- witnesses significantly impaired in relation to intelligence and social functioning;
- witnesses who have physical disability.

Intimidated witnesses include:<sup>44</sup>

- witnesses whose quality of testimony is likely to be diminished by reason of fear or distress or the prospect of giving evidence;
- victims in cases of sexual assault and domestic violence ;
- those who have experienced past or repeat harassment and bullying or repeat victimization;
- the elderly and frail;
- witnesses to murder; and
- those who are making allegations against professionals or carers.

The PPS also has to take into account the views of victims at other stages of the criminal justice process. For example when a court is considering whether to grant an accused bail, the PPS will bring to the court's attention if it is considered that there is risk of interference with a witness.<sup>45</sup> The PPS will also take into account the views of victims when considering whether to proceed with a lesser charge than the original charge.<sup>46</sup> The PPS also has a role in ensuring victims are treated with respect and dignity in the cross examination process as they can challenge the defence in instances of inappropriate cross examination, or where they make inaccurate or misleading statements. The PPS will in certain cases apply for an order such as a Compensation Order to require the defendant to pay compensation to the victim or a Sexual Offences Prevention Order to protect the victim from serious sexual harm from the victim.<sup>47</sup>

The Northern Ireland Court Service (NICTS) also plays a role in this stage of the process and staff can assist victims and witnesses by arranging visits to the court before going to give evidence, providing a place for victims and witnesses away from the defendant's family if possible and providing information on the court procedures or updating witnesses on the progress of the case.<sup>48</sup>

In addition to the service provided by the PPS and the NICTS, there are witness services run by voluntary organisations available before, during and after the trial to ensure information and support for victims and witnesses for the prosecution. One service is an adult witness

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42 Department of Justice "A Guide to Northern Ireland's Criminal Justice System" May 2010, 30

43 Department of Justice "A Guide to Northern Ireland's Criminal Justice System" May 2010, 29.

44 Department of Justice "A Guide to Northern Ireland's Criminal Justice System" May 2010, 29

45 Public Prosecution Service "Victims and Witnesses Policy", March 2007,14, [http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims\\_and\\_WitnessesPolicyv1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims_and_WitnessesPolicyv1.pdf)

46 Public Prosecution Service "Victims and Witnesses Policy", March 2007,14, [http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims\\_and\\_WitnessesPolicyv1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims_and_WitnessesPolicyv1.pdf)

47 Department of Justice "Code of Practice for Victims of Crime" March 2011, 29.

48 <http://www.victimsupportni.co.uk/what-we-do/witness-service>

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service run by Victim Support which is available in all courts. This service can offer emotional and practical support including:<sup>49</sup>

- information on court procedures;
- the opportunity to look around the court room before giving evidence;
- a quiet place to wait before and during the hearing;
- someone to accompany the person in the court when they are giving evidence;
- practical help with expenses forms;
- put the person in contact with other agencies who can answer specific questions as Victim Support cannot discuss evidence or offer legal advice.

The other service available is the Youth Witness Service which is run by the National Society for the Prevention of Cruelty to Children (NSPCC) and is available in all Crown Courts and in some magistrates' courts, youth court and county courts and is currently being extended to all courts.<sup>50</sup> The Youth Witness Service provides the following service:<sup>51</sup>

- Explaining the court layout and what happens at court;
- A visit to see the court before the trial;
- Trying to help with any worries about going to court;
- Showing young witnesses ways to stay calm;
- Providing support at court for families and supporting young witnesses in the TV link room or the courtroom;
- A quiet and safe place to wait during their time in the court building;
- Preparation for a possible verdict and other potential outcomes;
- Support at sentencing;
- Making sure the police, the prosecution, the court and the lawyers are aware of the needs and wishes of the young witness;
- Advice to parents and carers on how best to support their child;
- An opportunity to talk about the experience of giving evidence following the case;
- Onward referral to help from other agencies.

#### 4.4 The Sentencing Process

The judge alone is responsible for deciding the sentence in a case and takes into account a number of factors including the penalties set out in statute, whether the defendant has pleaded guilty, sentences established in case law and mitigating factors. The judge may also take into account a victim impact statement which is presented to a judge before a sentence is passed.<sup>52</sup> The PPS will present a victim impact statement to the court if the victim has prepared one.<sup>53</sup> A Victim Impact Statement contains information on the feelings of the victims and the impact of the crime on their lives for example emotionally, physically and financially, etc. Victim Impact Statements cannot however make reference to how long the victim feels that the person should spend in custody.

49 <http://www.victimsupportni.co.uk/what-we-do/witness-service>

50 Department of Justice "A Guide to Northern Ireland's Criminal Justice System" May 2010, 26.

51 Public Prosecution Service "Victims and Witnesses Policy", March 2007, 21, [http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims\\_and\\_WitnessesPolicyv1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims_and_WitnessesPolicyv1.pdf)

52 Department of Justice "A Guide to Northern Ireland's Criminal Justice System" May 2010, 35

53 Department of Justice "A Code of Practice for Victims of Crime" 21 March 2011, 28



Prior to the devolution of policing and justice in April 2010, the Attorney General in England and Wales may have had the power to exercise discretion in relation to criminal cases, including the power to refer unduly lenient sentences to the Court of Appeal. However after devolution of policing and justice, this responsibility has been transferred to the Director of Public Prosecutions.<sup>54</sup> Unduly lenient sentences are described as sentences which “fall outside the range of sentences that a Judge taking into account all the relevant facts including guidance on sentencing from the Court of Appeal could reasonably consider to be appropriate.”<sup>55</sup> In appeal cases where a defendant has been convicted in a magistrates’ court, a defendant can appeal against their sentence or conviction. If a county court appeal has been made against a conviction, a victim may have to go to court to give evidence again.<sup>56</sup> There are some cases where the Court of Appeal may decide that the magistrates’ court came to a decision that was wrong, for example applying a point of law incorrectly. The result of this is that the magistrates’ court may have to hear the case again and apply the point of law correctly. In such instances, victims and witnesses are not likely to be called again to give evidence.<sup>57</sup>

#### 4.5 After the trial process

After a trial is over, there are a number of Victim Information Schemes available to inform victims of when the offender in the relevant cases will be released from prison or hospital. The **Prisoner Release Victim Information Scheme** is run by the Northern Ireland Prison Service and provides victims with information about adult offenders who have been convicted of a crime against them. Victims can be given information on periods of temporary release from custody; the month and year in which the offender is expected to be released; any conditions attached to their release and any breaches of these conditions which would result in the offender being returned to custody.<sup>58</sup> Victims who choose to be given information on temporary release from custody will be given the opportunity to express concerns that they may have which will be taken into account by the Home Leave Board. If a prisoner’s case is referred to the Parole Commissioners, who are responsible to them for making decisions on the prisoner’s release, victims can be told when commissioners are considering the prisoner’s release give the commissioners their views; and be told the commissioners’ decision if the prisoner is to be released and the conditions which apply.<sup>59</sup>

The **Probation Board for Northern Ireland Information Scheme** (PBNI VIS) is another information scheme. This scheme provides victims with the choice of having information about the probation sentence in their case. The information available to the victim includes:<sup>60</sup>

- the type of supervision the offender is subject to;
- the length of supervision/licence;
- information on conditions;
- information on further sentences in the case of breach;
- information on how PBNI along with other agencies manages the case and the opportunity to include victims’ concerns;
- information on other criminal justice agencies that can provide support;
- the opportunity to be involved on a voluntary basis in restorative contact with the offender.

54 See B Dickson 2011 “Law in Northern Ireland: An Introduction”, SLS Publications, 287:Attorney General’s Office <http://www.attorneygeneral.gov.uk/ULS/Pages/Statistics.aspx> , section 41 of the Justice (NI) Act 2002

55 Public Prosecution Service “Victims and Witnesses Policy” March 2007,15, [http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims\\_and\\_WitnessesPolicyv1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims_and_WitnessesPolicyv1.pdf)

56 Department of Justice “A Guide to Northern Ireland’s Criminal Justice System” May 2010, 35

57 Department of Justice “A Guide to Northern Ireland’s Criminal Justice System” May 2010, 37

58 Department of Justice “A Guide to Northern Ireland’s Criminal Justice System” May 2010, 41

59 Department of Justice “Code of Practice for Victims of Crime” March 2011, 38

60 Department of Justice “A Guide to Northern Ireland’s Criminal Justice System” May 2010, 41

According to the PPS policy on victims and witnesses, the PPS has entered into a protocol with the Probation Board and PSNI to improve the effectiveness of information to victims where the offender has received a probation supervised order as a sentence.<sup>61</sup>

There are similar services for victims of mentally disordered offenders. **The Mentally Disordered Offenders' Victim Information Scheme** is a voluntary scheme run by the Mentally Disordered Offenders' Unit which provides information to registered victims on temporary periods of absence from hospital as part of the offenders' treatment plan and decisions of review tribunal hearings. Victims also have the opportunity to express their view in writing on the impact the offender's leave or release will have on them.

#### 4.6 Compensation

The Compensation Agency is responsible for processing applications and making awards on three different compensation schemes: criminal injuries, criminal damage and Justice and Security (Northern Ireland) Act 2007 Compensation schemes.

The victims and witnesses of violent crime may qualify for compensation under the Northern Ireland Criminal Injuries Compensation Scheme 2009. There are a number of agencies victims and witnesses may be involved with in the process of applying for criminal injuries compensation. Firstly in order to be eligible for compensation the crime has to have been reported to the police and the victim has to cooperate with them in the prosecution. Victim Support provides help, information and support throughout the process. They can help with the application, and review application and can represent victims at appeal hearings. The Compensation Agency makes the initial decision on compensation claims and agency staff also can carry out a review. In the case that a person disagrees with a review decision, they can appeal to the Criminal Injuries Compensation Appeals Panel which is an independent organisation run by the NICTS.<sup>62</sup>

To apply for compensation in relation to criminal damage, a victim must complete a notice of intention form within 10 days of the damage happening and serve it on the Department of Justice and the local police. The actual application has to be made within four months which can be extended to six months. The request for extension has to be made in writing to the Compensation Agency.<sup>63</sup>

Applications for compensation may also be made for loss or damage as a result of an action by the police or army under the Justice and Security (Northern Ireland) Act 2007. The legislation provides a right to claim compensation from the Security of State for Northern Ireland, however the Compensation Agency administers the scheme and applications have to be made within 28 days of the date of the damage. If there is dissatisfaction with the agency's decision, there is a right of appeal to the county court.<sup>64</sup>

## 5 Statistics on Perceptions of the Northern Ireland Criminal Justice System

This section will consider key statistics regarding the experiences of victims and witnesses in the criminal justice system in Northern Ireland. The information is derived from three main sources: the Northern Ireland Crime Survey; Northern Ireland Victims and Witnesses

61 Public Prosecution Service "Victims and Witnesses Policy", March 2007, 6 [http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims\\_and\\_WitnessesPolicyv1.pdf](http://www.ppsni.gov.uk/Site/1/Documents/Victims/Victims_and_WitnessesPolicyv1.pdf)

62 Department of Justice "A Guide to Northern Ireland's Criminal Justice System" May 2010, 47-48

63 Department of Justice "A Guide to Northern Ireland's Criminal Justice System" May 2010, 47-48

64 The Compensation Agency "A Guide to the Justice and Security (NI) Act 2007: A Guide to Compensation in Northern Ireland", <http://www.nidirect.gov.uk/compensation-guide-justice-and-security-act-2007.pdf>

Survey (NIVAWS) 2010-2011 findings; and a study by the National Society for the Prevention of Cruelty to Children (NSPCC) and Queens' University Belfast on the Experiences of Young Witnesses in Criminal Proceedings published in May 2011.

## **5.1 Northern Ireland Crime Survey**

Within the annual Department of Justice/NIO/NISRA Northern Ireland Crime Survey there is a section concerned with perceptions of policing, justice and organised crime.

Since October 2007 the NICS has measured public confidence in both the fairness and effectiveness of the criminal justice system (CJS). This approach led to the development of a new series of questions, replacing those used to construct a six-strand composite measure to gauge confidence in the CJS between NICS 2003/04 and 2007/08.

### **5.1.1 Indicators from 2003-04 until 2007/08**

From 2003/04 until 2007/08, the NCIS had monitored confidence in the CJS through an unweighted composite measure, consisting of a suite of six indicators, which elicit views on the fairness and effectiveness of the CJS in Northern Ireland:<sup>65</sup>

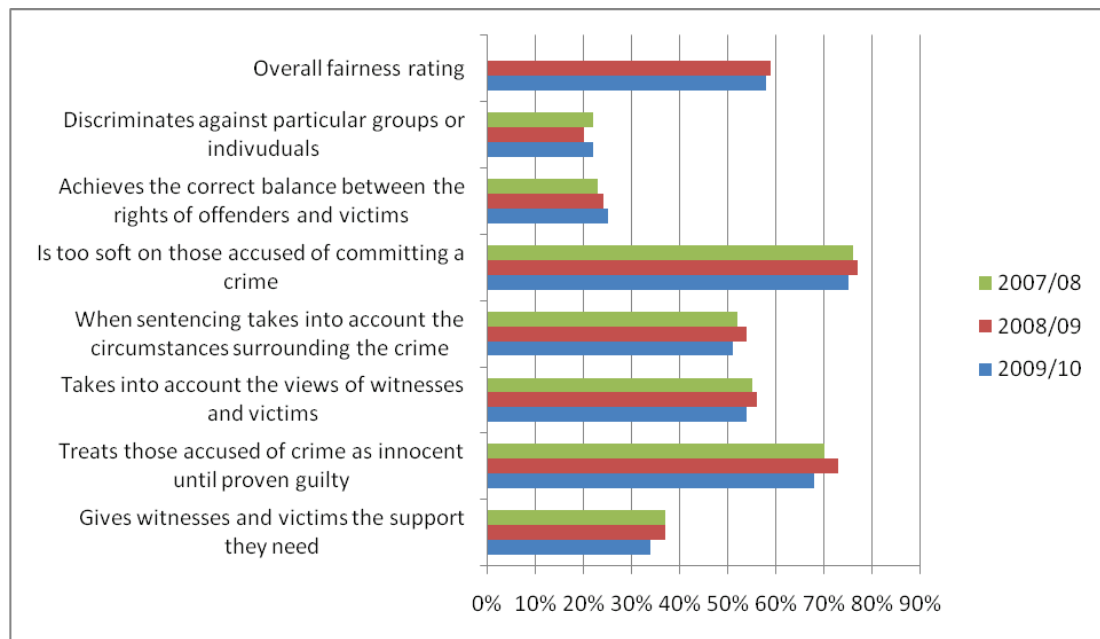
1. Bringing those who commit crime to justice;
2. Meeting the needs of victims of crime;
3. Respecting the rights of the accused and treating them fairly;
4. Dealing with cases promptly and efficiently;
5. Reducing crime; and
6. Dealing with young people accused of crime.

### **5.1.2 Indicators 2007 to present: Confidence in the fairness of the criminal justice system in Northern Ireland**

NICS respondents, since October 2007, have been asked to what extent they agree or disagree with a number of statements concerning fairness of the criminal justice system. The newer statements appear to put much greater emphasis on witnesses and victims as part of the CJS. The chart below demonstrates the trends in respondent's confidence in the fairness of the CJS in Northern Ireland between 2007/08 and 2009/10.

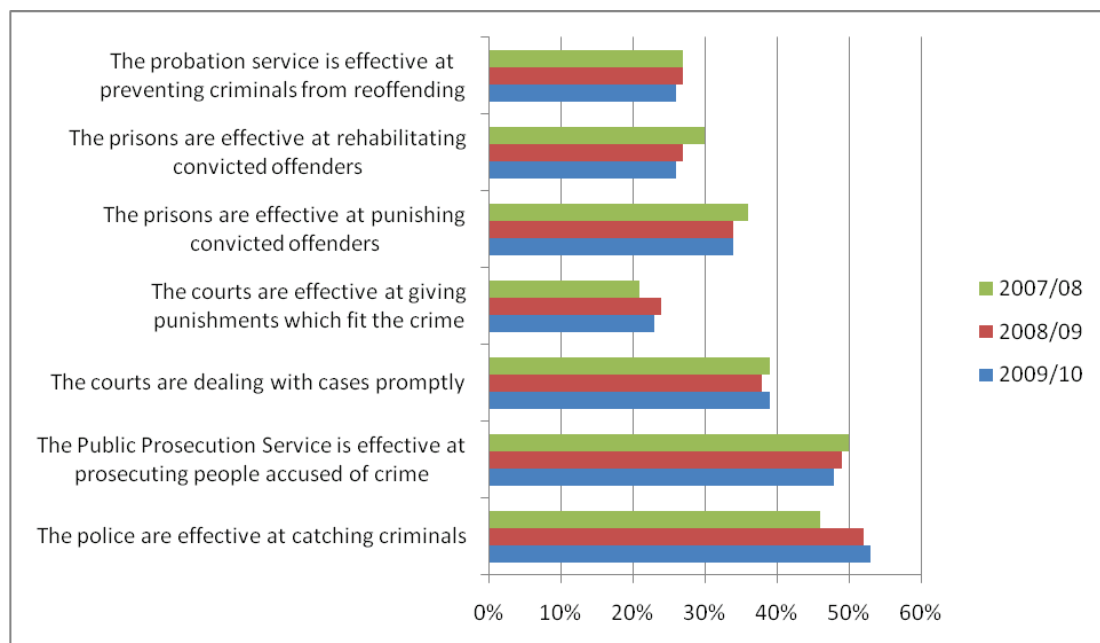
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65 [http://www.dojni.gov.uk/index/statistics-research/stats-research-publications/perceptions\\_of\\_policing\\_justice\\_and organised\\_crime\\_findings\\_from\\_the\\_200910\\_northern\\_ireland\\_crime\\_survey.pdf](http://www.dojni.gov.uk/index/statistics-research/stats-research-publications/perceptions_of_policing_justice_and organised_crime_findings_from_the_200910_northern_ireland_crime_survey.pdf)



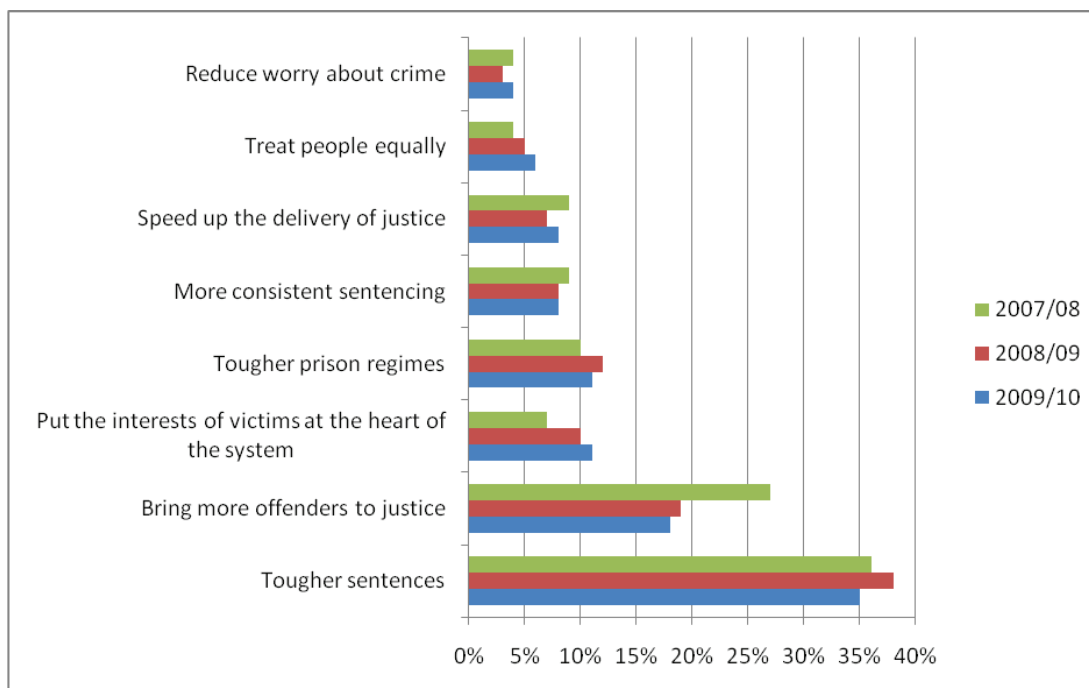
### 5.1.3 Confidence in the effectiveness of the criminal justice system in Northern Ireland

NICS respondents have also been asked for their views on the effectiveness of the organisations that make up the CJS in achieving particular outcomes, as well as how they feel about the overall effectiveness of the CJS. This data is of particular importance as it relates to the agencies, and their effectiveness, which victims and witnesses encounter in the CJS, see the chart below



### 5.1.4 Perceptions of how the criminal justice system could increase its confidence rating

The chart below provides information from the NICS on perceptions of how the criminal justice system could increase its confidence rating.



**5.1.5 Confidence in the criminal justice system: Victims and Non-Victims**

- According to the 2009/10 NICS the levels of confidence in the CJS were higher among those respondents who had not previously had any direct contact with the system, either through being a victim of crime reported to the police or by attending court as a victim/witness/spectator.
- NICS 2009/10 respondents who had been victims of a crime that was subsequently reported to the police expressed lower levels of confidence in both the fairness (52%) and effectiveness (32%) of the CJS than those who had never been victims (62% and 41% respectively).<sup>66</sup>
- There were similar responses in the 2008/09 NICS – 53% of those who had been the victim of a crime reported to police viewed the CJS as a whole being fair, whereas 62% who had never been a victim had the same perception. Effectiveness ratings were 30% vs 41% among the same respondents.

**5.2 Northern Ireland Victim and Witness Survey Findings**

**5.2.1 Introduction**

This section will highlight key findings from the DOJ report, ‘Performance of the Criminal Justice System from a Victim and Witness Perspective: Comparison of Findings from the 2008/09, 2009/10 and 2010/11 Surveys’. The trends will be broken into three distinct categories, entitled ‘Pre-Trial’, ‘Trial’ and ‘Post-Trial’ for the purposes of this paper in order to illuminate victim and witness perspectives of the Criminal Justice System in NI during each phase of the criminal justice process.

The Northern Ireland Victim and Witness Survey was commissioned by the NIO as a means of both monitoring progress against the various actions detailed in the ‘Bridging the Gap’ strategy document and, more specifically, with a view to monitoring performance against the ‘Justice for All’ key performance indicator. To date three administrations of the survey have been undertaken covering 2008/09, 2009/10 and 2010/11.<sup>67</sup> Ipsos MORI undertook the

66 [http://www.dojni.gov.uk/index/statistics-research/stats-research-publications/perceptions\\_of\\_policing\\_\\_justice\\_and\\_organised\\_crime\\_findings\\_from\\_the\\_200910\\_northern\\_ireland\\_crime\\_survey.pdf](http://www.dojni.gov.uk/index/statistics-research/stats-research-publications/perceptions_of_policing__justice_and_organised_crime_findings_from_the_200910_northern_ireland_crime_survey.pdf)

67 Department of Justice, *Performance of the Criminal Justice System from a Victim and Witness Perspective: Comparison of Findings from the 2008/09, 2009/10 and 2010/11 Surveys*, p.1

first administration of NIVAWS in 2008/09 and were subsequently commissioned in the summer of 2009/10 to undertake a further three administrations of the survey covering the period 2009/10 up to 2011/12.<sup>68</sup>

Victim and witness details for NIVAWS are sourced from PPS records.<sup>69</sup>

## 5.2.2 Findings From the Pre-Trial Phase

### Giving a Statement

- The vast majority of the 2010/11 survey respondents (94%) reported being satisfied with how they had been treated while giving their statement to the police; the equivalent figures for the earlier years were 93% (2008/09) and 95% (2009/10).
- The proportion of respondents who reported not having had any official follow-up on their case across all three surveys accounted for 15% in 2010/11 and 17% in both 2008/09 and 2009/10.

### Case Outcome

- Approximately half of the respondents to each survey reported that the case they had been involved in had gone to court (48% in 2008/09, 45% in 2009/10 and 52% in 2010/11)
- However approximately one fifth of the respondents reported that they did not know what the case outcome had been (19% in 2008/09, 22% in 2009/10 and 20% in 2010/11)

### Dropped Cases and Formal Police Cautions/Warnings

- Fewer than half of respondents (43%) who had been involved in cases where the charges had been dropped, or where a formal police caution or warning had been issued, reported being satisfied with the outcome of their case. This finding is consistent with the equivalent finding for the earlier years of the survey (2008/09: 44% satisfied; 2009/10: 47% satisfied)
- In the 2010/11 survey 35% of respondents involved in cases where the charges had been dropped reported being satisfied with the case outcome compared with 56% of those involved in cases where the outcome had been a formal police caution or warning.

### Pre-Trial Concerns about Attending Court

- Survey respondents who had been asked to attend court to give evidence were asked whether or not they had concerns on a range of issues related to attendance at court from travel arrangements to being cross-examined to loss of personal time etc.
- Across all three surveys the most frequently identified concerns related to coming into contact with the defendant (and his/her supporters), intimidating behaviour of the defendant or his/her supporters, not knowing enough about the court process/environment and being cross examined.

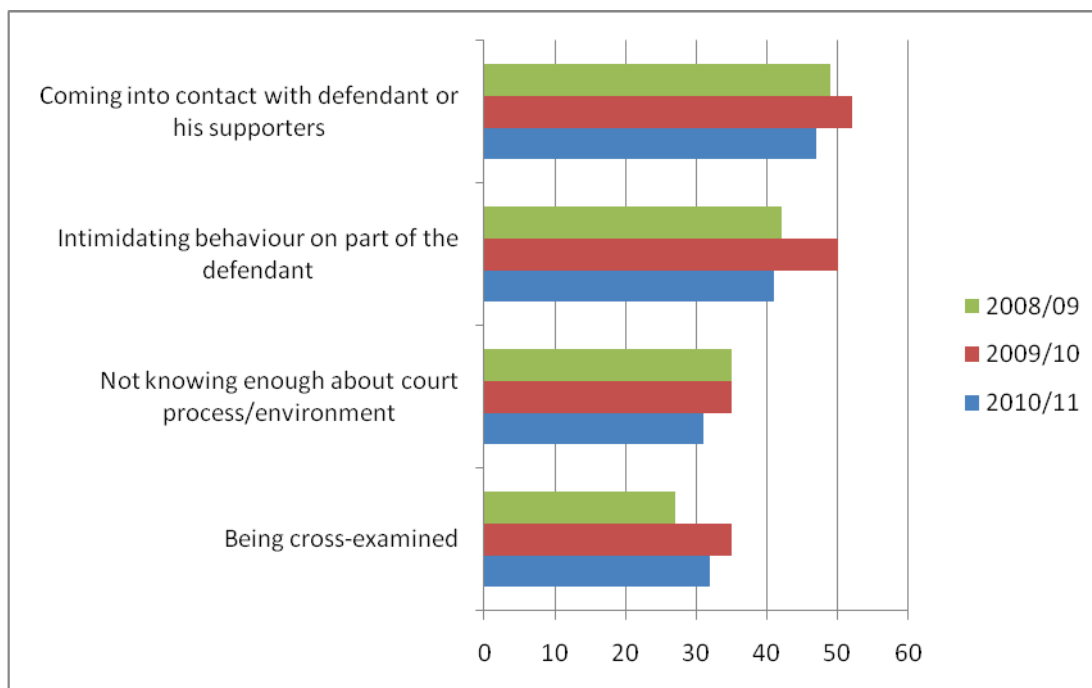
The chart below provides information on responses relating to pre-trial concerns.

68 Department of Justice, Performance of the Criminal Justice System from a Victim and Witness Perspective: Comparison of Findings from the 2008/09, 2009/10 and 2010/11 Surveys, p.2

69 Department of Justice, Performance of the Criminal Justice System from a Victim and Witness Perspective: Comparison of Findings from the 2008/09, 2009/10 and 2010/11 Surveys, p.3



**Table 1: Pre-Trial Concerns about Attending Court**



27% of respondents in 2008/09 were concerned with being cross-examined. This increased to 35% in 2009/10 and fell slightly, to 32%, in 2010/11. 35% of respondents highlighted concern at not knowing enough about court process/environment in 2008/09 and 2009/10. By 2010/11 this had dropped to 31%. Concern about intimidating behaviour on the part of the defendant increased from 42% in 2008/09 to 50% in 2009/10 but fell to 41% in 2010/11. Concern about coming into contact with defendant or his (and her) supporters remained relatively consistent over the three year period with a rise from 49% to 52% and a drop to 47% in 2010/11.

**Satisfaction with How Dealt with in Lead up to the Trial/Attending Court**

- Across all three surveys the majority of respondents reported that they had been satisfied with the information they had received to prepare them for going to court prior to the trial date (74% in 2008/09, 82% in 2009/10 and 78% in 2010/11)
- Approximately four fifths of respondents to the 2010/11 survey (81%) considered that they had been satisfied with how they had been dealt with prior to attending court. This compares with 77% of respondents in 2008/09 and 84% in 2009/10.

**5.2.3 Findings from the Trial Phase**

**Attendance at the Trial/Hearing**

- In the 2010/11 survey, two thirds of respondents (67%) involved in cases which progressed to trial/hearing reported that they had been asked to attend the trial/hearing to give evidence and 53% of respondents reported that they attended the trial/hearing.
- This compares with 2009/10 when 63% of respondents had been asked to attend and 53% attended and 2008/09 when 54% of respondents had been asked to attend and 43% attended.
- Of respondents asked to attend to give evidence in 2010/11, 26% reported that they actually gave evidence; the equivalent figures for 2008/09 and 2009/10 were 30% and 24% respectively.

## The Court Experience

This section highlights trends in response to key questions over the three year period concerning the experience of victims and witnesses in who were asked to give evidence in court.

- Of those asked to give evidence and who attended court 86% in 2010/11 understood what was happening in court while they were there, with only 13% not understanding. Responses have been generally consistent over the three year period, with 82% understanding in 2008/09.
- Satisfaction with the consideration shown to those who ultimately gave evidence before giving their evidence remained relatively consistent, with those satisfied equating to 74% in 2008/09, 77% in 2009/10 and 71% in 2010/11. Dissatisfaction fell from 25% in 2008/09 to 20% in 2009/10, but rose again to 28% in 2010/11.
- Of those who were cross examined in 2008/09, 50% felt that the barrister for the other side was courteous, with 46% feeling that they were discourteous. Perceptions of the barrister declined in 2009/10 with 54% feeling they were discourteous and 55% in 2010/11.
- Of those who ultimately gave evidence 88% felt that they were dealt with fairly whilst giving evidence. However by 2010/11 this had fallen to 76%.
- However of all those who attended court 69% were satisfied with their experience of court in 2008/09, with a rise of 9% to 78% in 2009/10 and a slight decrease (75%) in 2010/11.

### 5.2.4 Findings from the Post-Trial Phase

#### Case Outcome and Sentence

- Of those cases that went to trial, 81% found out what the outcome of their case was in 2008/09, 82% in 2009/10 and 79% in 2010/11.
- However from a low of 68% in 2008/09 there was an increase to 78% in 2009/10, 77% in 2010/11 in those who thought that the outcome of the case was fair.
- Of those trials where the offender was found/pleaded guilty 75% knew what the sentence was in 2008/09, 76% in 2009/10 and 70% in 2010/11.
- In 2008/09 54% felt that the sentence given was fair. This remained consistent in 2009/10 (51%) and 2010/11 (52%).

#### Voluntary Support Service/Victim Information Schemes

- In 2008/09 31% of **victims only** had contact with Victim Support at any stage in the process. In 2009/10 and 2010/11, incorporating victims and witnesses, the proportion who had contact with Victim Support was 24% and 22% respectively.
- However of those who did have contact with Victim Support there was a high rate of satisfaction with the contact they had had. 85% of **victims only** were satisfied in 2008/09 with 86% and 91% of victims and witnesses satisfied in 2009/10 and 2010/11 respectively.
- Of those cases where the offender was found/pleaded guilty and received a sentence of 6 months or more only 19% in 2008/09 were aware of the Prisoner Release Victims Information Scheme<sup>70</sup>. This rose slightly, to 21%, in 2009/10 and then to 27% in 2010/11.

70

In 2008/09 all victims regardless of the length of the prison sentence were asked about PRVIS.

### 5.3 NSPCC/QUB Research on the Experiences of Young Witnesses in Criminal Proceedings

#### 5.3.1 Introduction

Over the past decade governments in England, Wales and Northern Ireland have introduced a raft of policies and procedures in order to ensure that child witnesses are able to give their best evidence and receive the support they need. Despite these efforts, however, research in England and Wales demonstrated a continuing gap between policy and the practice reality of many children's experiences of giving evidence in criminal courts. The small number of Northern Ireland interviews in this research, however, and evidence of on-going difficulties experienced by young witnesses, pointed to the need for additional research in Northern Ireland to explore the issues further and inform policy and practice in this jurisdiction.<sup>71</sup>

This section will highlight some of the key findings from the May 2011 report for the Department of Justice which was researched and written in conjunction with Queen's University Belfast and the NSPCC. Again, for the purposes of this paper, the results will be categorised into 'Pre-Trial', 'Trial' and 'Post-Trial' in order to illuminate the views of young people in each category.

Potential research participants were identified via the NSPCC's Young Witness Service (YWS) according to the following criteria:

- They were aged under 17 at the time of the offence;
- They have evidence for the prosecution at trial in respect of any type of offence at either a Magistrates, Youth, or Crown Court in Northern Ireland;
- The case had been completed with no ongoing involvement from the YWS.<sup>72</sup>

Due to being a general survey rather than an investigation of a three-year period like the previous report, 'Performance of the Criminal Justice System from a Victim and Witness Perspective: Comparison of Findings from the 2008/09, 2009/10 and 2010/11 Surveys', it has not been possible to provide an indication of trends. It was, however, considered important to summarise the results of this survey as it illuminates the feelings of young people regarding their experience of the criminal justice system as victims and witnesses.

#### 5.3.2 Findings from the Pre-Trial Phase

##### Waiting to go to Trial

The majority of young witnesses (83.8%) described themselves as being very worried or anxious in the pre-trial period. Nineteen (51.4%) said that they had not been too worried at first but had become more anxious as the trial date approached and twelve (32.4%) said that they had been worried about court right from the outset.

- The biggest reason given by young witnesses for worry in the pre-trial period was anxiety about giving evidence (56.7%) with 46% being simply 'scared' and 46% feeling intimidated by the defendant/defendant's friends or family.
- A stark statistic indicated the effect of being a young witness on school attendance and performance with 62.2% having missed days at school. Some young witnesses included days missed due to attendance at court and not specifically as a result of anxiety or stress in the pre-trial period. The authors have however suggested that it is clear that for a significant number of the young witnesses in the study the pre-trial period was very difficult and that, for some, symptoms persist post-trial.<sup>73</sup>

71 The Experience of Young Witnesses in Criminal Proceedings in Northern Ireland: A Report for the Department of Justice (NI), Hayes et al, May 2011, p.5

72 The Experience of Young Witnesses in Criminal Proceedings in Northern Ireland: A Report for the Department of Justice (NI), Hayes et al, May 2011, p.16

73 The Experience of Young Witnesses in Criminal Proceedings in Northern Ireland: A Report for the Department of Justice (NI), Hayes et al, May 2011, p.27

### **Pre-Trial Preparation and Support**

- Just under half - 48.6% - of the young witnesses in the study had a pre-trial familiarization visit to the court, with 77.8% of them considering that this visit had occurred at the right time.
- According to interviews with young witnesses and their parents 54% of the young people had pre-trial contact with a supporter from the NSPCC YWS. 35.1% of these constituted both a court visit and a home visit, while 13.5% had a court visit only; and 5.4% a home visit only.
- Parent interviews indicated that of the young witnesses who had contact with a supporter before the trial, 50% had two pre-trial contacts whereas 5% had ten pre-trial contacts.
- 85% of young people and 89.5% of parents said that either the supporter had made a lot of difference or that it was contact with the supporter that had made it possible for the young person to go to court.
- 97.3% of the young witnesses said that someone had helped them by explaining about court and answering their questions although often this was on the day of the trial.
- 86.5% said that the NSPCC YWS had helped them.
- 40.5% said that a parent or mother relative had helped.
- 35.1% said that help had been provided by a police officer.
- 2.7% of respondents said that the court clerk had helped them; the judge had helped them; a friend had helped; that someone had helped them but they could not remember who that person was.

### **5.3.3 Findings from the Trial Phase**

#### **Arrangements at Trial and Special Measures**

- 62.1% waited to give evidence away from the public in a separate waiting area.
- 16.2% waited in the location of a remote TV link away from the court building.
- 21.6% reported that they had waited in 2 different locations.
- 18.9% said that they felt "OK" whilst waiting to give evidence but the majority (78.4%) stated that they felt very nervous, anxious or upset.
- The majority of young witnesses (75.7%) stated that there were toys, magazines, TV/ video/DVDs available while they waited. Although 10.8% felt that there was nothing to do/ nothing age or gender appropriate.
- 60% of young witnesses gave evidence in a TV link room at Court Building, whereas 28.6% gave evidence in a TV link room at a Remote Location.
- 8.6% gave evidence in Open Court while only 2.8% gave evidence in Open Court screened from the defendant.

Parents of young witnesses were asked a range of questions concerning how the court took account of their child's needs.

- 46.2% felt that the court took account of their child's health needs (e.g. tiredness, time allowed to take medication) 'very well' and 'quite well', while 48.1% felt that the court took account of their child's developmental needs (e.g. attention span and level of understanding) 'very well' and 'quite well'.
- 46.7% felt that the court took account of their child's welfare (e.g. in relation to any stress experienced by your child) 'very well'; 48.5% felt that that the court took account of their child's security (e.g. ensuring your child did not see the defendant at court) 'very well'.

### **Answering Questions**

- When asked how they felt whilst answering questions, the majority (65.7%) said they felt 'nervous' while just under half (48.6%) stated they felt 'upset/scared/shaky' – 31.4% stated that they felt 'OK, quite confident'.
- A large majority (77.1%) of young witnesses described the questions asked by the defence lawyer as 'Repetitive', while just under half (45.7%) described the questions as 'Too long/complicated'.
- 60% of young witnesses, when describing the behaviour of the defence lawyer, stated that they had been told that they were 'Lying more than once' while 65.7% felt that the defence lawyers had 'Tried to put words in my mouth'.

### **5.3.4 Findings from the Post-Trial Phase**

#### **After the Trial**

- The majority of cases (70.3%) resulted in a conviction on at least one charge and 66.7% of parents and 75.7% of young people recalled someone letting them know about the verdict soon after the trial finished. The person who did this most commonly was the YWS supporter (39.3%), followed by the police (32.1%), a relative (25.0%) and the PPS (14.3%).
- For young witnesses family members were the biggest source of support in the post-trial period (62.1%) with much smaller proportions reporting the YWS (16.2%) and the police (8.1%) as the most helpful after the trial.
- On the other hand almost half of parents (48.5%) felt that the YWS had been the biggest help after trial, followed by much smaller numbers citing the police (6.1%) and family members/friends (6.1%) as the most helpful.
- 62.2% of young witnesses indicated that they would be willing to give evidence in a criminal trial again if asked although just over half (51.4%) stated that there was nothing positive about the experience of being a witness.
- All but one of the young people who said they would not give evidence again were victims of sexual and violent offences rather than witnesses.
- 63.9% of young people suggested some changes to improve how young witnesses are treated at court. Much of this focused on cross-examination by defence lawyers with young children describing this as too hard and not taking enough account of the age of the child; for example:

*"Defense lawyers should be nicer – slow down, not jump about with their questions and not use complicated sentences."* (13 year old witness to violent offences)

And

*"You should be allowed to make the decision about how you give evidence."* (15 year old victim of sexual offence)

- 40.5% of young witnesses also suggested some changes to the way witnesses are supported. A number suggested more pre-trial contact and support to help prepare them for court, others more post-trial support
- More than half of parents (54.5%) indicated that they would have liked more help and information. More face-to-face contact with YWS supporters, someone to call if they had questions and advice on how to support their child were the types of help parents most frequently referred to. Other types of help/information cited included earlier contact with the NSPCC YWS, being made aware there was a YWS, post-trial support and being told the outcome.

## 6 International Human Rights Instruments and EU Law

There are a number of international human rights instruments that are relevant to victims and witnesses. The United Nations (UN) Declaration of Basic Principles for Victims of Crime and Abuse of Power contains a number of duties of member states including: access to justice and fair treatment; restitution; compensation; and assistance.<sup>74</sup> Subsequently, the Eighth UN Congress on the Prevention and the Treatment of Offenders in 1990 published Guidelines on the Role of Prosecutors.<sup>75</sup> The guidelines specify that prosecutors shall consider the views and concerns of victims when their personal interests are affected and ensure victims are informed of their rights in accordance with the Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power.<sup>76</sup> Guidelines have also been developed by members of Commonwealth countries building on the UN Declaration of Basic Principles. The Commonwealth Guidelines for the Treatment of Victims of Crime was developed in 2003 and outlines best practice on dealing with victims and witnesses.<sup>77</sup> The guidelines detail minimum standards in relation to the assistance and treatment victims and witnesses should expect from criminal justice agencies including law enforcement officials, prosecutors and the courts. The guidelines also set out the rights of victims at post sentencing stage and duties of member states in relation to compensation or restitution. It should be noted however that these guidelines and declarations have no legally binding effect but rather represent good practice and the commitment of members of the UN and Commonwealth to adhere to these principles.<sup>78</sup>

The provisions set out in the European Convention on Human Rights (ECHR), incorporated by the Human Rights Act 1998 are also relevant to victims in Northern Ireland as it is unlawful for public authority to act in a way that is incompatible with a convention right.<sup>79</sup> Victims are not expressly referred to in the text of the ECHR; however it is suggested that victims and witnesses have implied rights under the convention.<sup>80</sup> The articles of the ECHR have been interpreted by the European Court of Human Rights (ECtHR) to give effect to aspects of victims' human rights. Article 2 (the right to life) has been interpreted to include duties to have effective criminal provision to protect victims, the right to police protection, the right to effective investigation, and the right to involvement in the decision whether to prosecute.<sup>81</sup> Article 3 (the right to freedom from torture, inhuman and degrading treatment) has been interpreted to include a duty on states to have effective criminal sanctions and duties to investigate, prosecute and punish.<sup>82</sup> Article 8 (the right to private life) has been interpreted by

74 The UN Declaration of Basic Principles for Victims of Crime and Abuse of Power, adopted by the General Assembly resolution 40/34 of 29 November 1985. Available at <http://www2.ohchr.org/english/law/victims.htm>

75 <http://www2.ohchr.org/english/law/prosecutors.htm>

76 Section 13 (d) of Guidelines on the Role of Prosecutors, <http://www2.ohchr.org/english/law/prosecutors.htm>

77 Commonwealth Secretariat "Guidelines for the Treatment of Victims of Crime: Best Practice", 2003

78 Commonwealth Secretariat "Guidelines for the Treatment of Victims of Crime: Best Practice", 2003, 9: Criminal Justice Review Group "Review of the Criminal Justice System in Northern Ireland " 2000, 28, [http://www.nio.gov.uk/review\\_of\\_the\\_criminal\\_justice\\_system\\_in\\_northern\\_ireland.pdf](http://www.nio.gov.uk/review_of_the_criminal_justice_system_in_northern_ireland.pdf). Christine Chinkin notes that principles are a form of 'soft law' which she describes as having an informative and educative role which is well suited to non-judicial means of dispute resolution, see C Chinkin 'The Challenge of Soft Law: Development and Change in International Law' (1989) 38 ICLQ 851.

79 Section 6 of the Northern Ireland Act 1998 provides that the Northern Ireland Assembly cannot pass legislation which is incompatible with convention rights. Section 6 of the Human Rights Act prohibits public authorities from acting in a way that is incompatible with convention rights.

80 C de Than "Positive Obligations under the European Convention on Human Rights: Towards the Human Rights of Victims and Vulnerable Witnesses", 67 *Journal of Criminal Law*, 165 2003, 168.

81 C de Than "Positive Obligations under the European Convention on Human Rights: Towards the Human Rights of Victims and Vulnerable Witnesses", 67 *Journal of Criminal Law*, 165 2003, 170-171. 174.

82 C de Than "Positive Obligations under the European Convention on Human Rights: Towards the Human Rights of Victims and Vulnerable Witnesses", 67 *Journal of Criminal Law*, 165 2003, 177-178



the ECtHR to include the right to effective legal safeguards to prevent violations of rights.<sup>83</sup> It is interesting to note that the Police Service of Northern Ireland (PSNI) makes specific reference to the articles of the ECHR in its policy directive on dealing with victims of crime, specifically Articles 2, 3, 8 and Protocol 1, Article 1 (protection of property).<sup>84</sup>

The need to improve services to victims was reflected in the Northern Ireland Human Rights Commission's (NIHRC) advice on a Bill of Rights for Northern Ireland. NIHRC recommended that provisions should include that every victim of crime should have the right to appropriate material, medical, psychological and social assistance and the right to be informed of the progress of investigation and legal proceedings.<sup>85</sup> In response to the NIHRC's advice, the Northern Ireland Office proposed to consider whether any further measures were required to provide support and protection to witnesses.<sup>86</sup>

In addition to international human rights law, the 2001 European Union (EU) Council Framework Decision on the Standing of Victims in Criminal Proceedings provides for minimum rights for crime victims in criminal proceedings. The provisions include the right to be treated with respect, the right to be heard and supply evidence. Member states are also required to provide victims with information on the types of services and support victims of crime can access.<sup>87</sup> The European Commission has published proposals to strengthen the rights of victims in Europe.<sup>88</sup> The proposed directive contains provisions on the following:

- The right to receive information including the right to interpretation and translation services;<sup>89</sup>
- The right to access victim support services;<sup>90</sup>
- Rights in criminal proceedings including the right to be heard, rights in a decision not to prosecute, the right to legal aid, the right to decisions on compensation and the rights of victims resident in another member state;<sup>91</sup>
- Recognition of vulnerability and protection of victims including children, persons with disabilities, victims of sexual violence and human trafficking;<sup>92</sup>

83 C de Than "Positive Obligations under the European Convention on Human Rights: Towards the Human Rights of Victims and Vulnerable Witnesses", 67 *Journal of Criminal Law*, 165 2003, 177-178

84 Police Service of Northern Ireland "Policy Directive for Dealing with Victims and Witnesses", 8. [http://www.psnipolice.uk/policy\\_directive\\_0506.pdf](http://www.psnipolice.uk/policy_directive_0506.pdf)

85 Northern Ireland Human Rights Commission "A Bill of Rights for Northern Ireland: Advice to the Secretary of State for Northern" 10 December 2008, 43. [http://www.nihrc.org/dms/data/NIHRC/attachments/dd/files/51/A\\_Bill\\_of\\_Rights\\_for\\_Northern\\_Ireland\\_%28December\\_2008%29.pdf](http://www.nihrc.org/dms/data/NIHRC/attachments/dd/files/51/A_Bill_of_Rights_for_Northern_Ireland_%28December_2008%29.pdf)

86 Northern Ireland Office Consultation Paper "A Bill of Rights for Northern Ireland: Next Steps" November 2009, 102. [http://www.nio.gov.uk/consultation\\_paper\\_-\\_a\\_bill\\_of\\_rights\\_for\\_northern\\_ireland\\_\\_next\\_steps.pdf](http://www.nio.gov.uk/consultation_paper_-_a_bill_of_rights_for_northern_ireland__next_steps.pdf)

87 EU Council Framework Decision on the Standing of Victims in Criminal Proceedings 2001/220/JHA 15 March 2001, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001F0220:EN:NOT>

88 European Commission "Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime" COM (2011) 275 final, Brussels 18.05.2011, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0275:FIN:EN:PDF>

89 Articles 4-6 of "Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime" COM (2011) 275 final, Brussels 18.05.2011, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0275:FIN:EN:PDF>

90 Article 7 of "Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime" COM (2011) 275 final, Brussels 18.05.2011, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0275:FIN:EN:PDF>

91 Articles 8-16 of "Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime" COM (2011) 275 final, Brussels 18.05.2011, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0275:FIN:EN:PDF>

92 Articles 18 of "Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime" COM (2011) 275 final, Brussels 18.05.2011, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0275:FIN:EN:PDF>

- Training of practitioners and co-operation and co-ordination of services.<sup>93</sup>

The UK has indicated it will opt in to the proposed EU Directive so it will apply in the UK.<sup>94</sup>

## 7 Conclusion

This paper has examined the status of victims and witnesses in the criminal justice system. The research suggests that traditionally victims have had little role in the criminal justice process which is dominated by the relationship between the state and the defendant. However the research also indicates that greater emphasis has been given to victims in international, European and domestic policy, particularly in ensuring victims are treated with respect by criminal justice agencies, have access to the provision of information and support services.

The briefing paper sets out the process that victims and witnesses experience as their case goes through the criminal justice system. This process includes various stages: the reporting and investigation of the crime, the decision to prosecute, the trial, sentencing, after the trial and the possibility of compensation. It is evident from the research that victims may encounter a range of different bodies, both statutory and voluntary at each stage of the process.

There are statistics regarding the experiences of victims and witnesses in the criminal justice system. These statistics come from the NI Crime Survey, the NI Victims and Witnesses Survey and research conducted by the NSPCC and QUB.

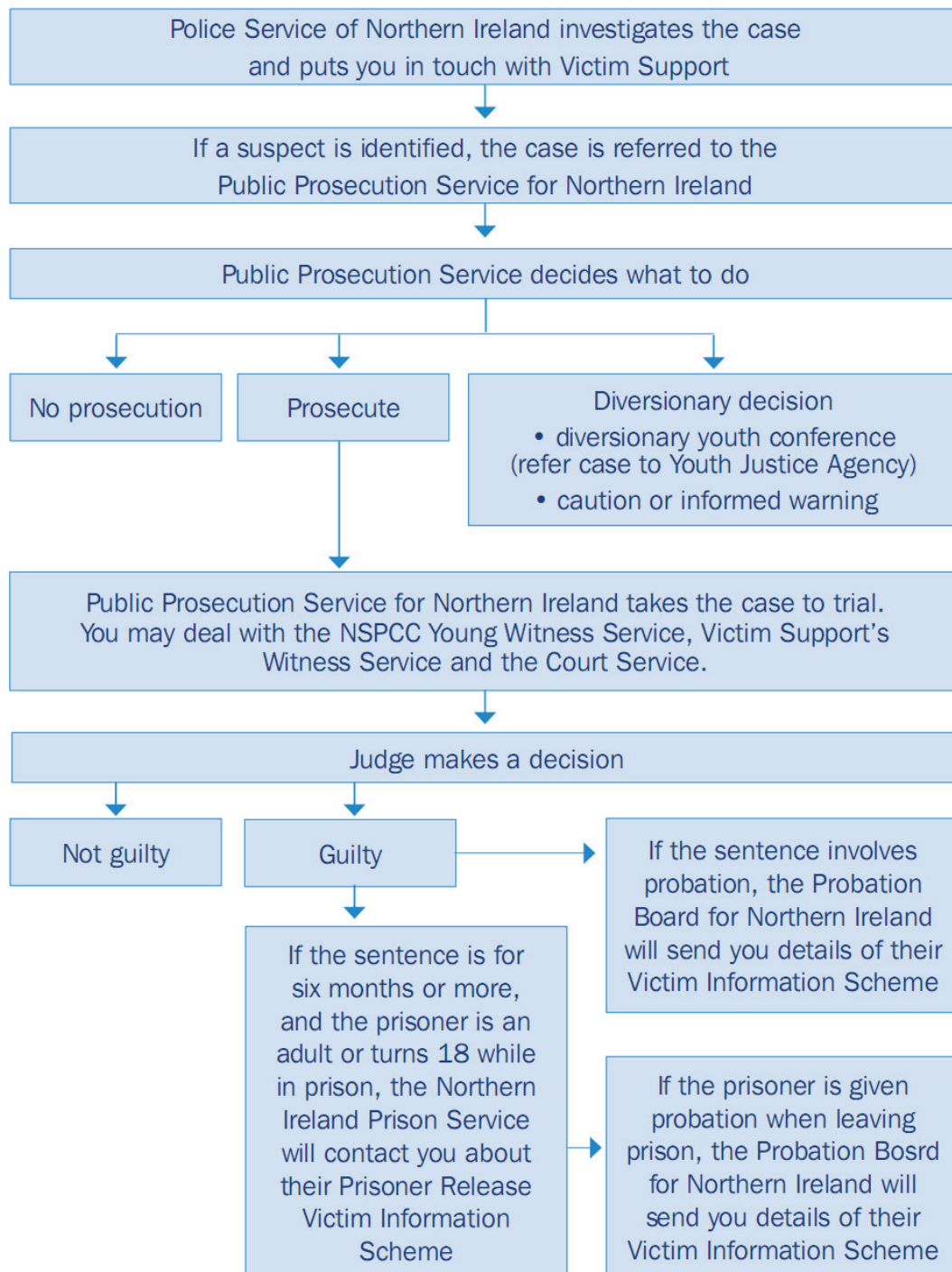
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93 Article 24-25 of "Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime" COM (2011) 275 final, Brussels 18.05.2011, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0275:FIN:EN:PDF>

94 Ministry of Justice "Crime Victims in Europe to get extra protection" 26 August 2011, <http://www.justice.gov.uk/news/press-releases/moj/pressrelease260811a.htm> ,

**Annex A- The Path through the Criminal Justice System<sup>95</sup>**

## Path through the Criminal Justice System



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Source: Department of Justice: Code of Practice for Victims of Crime, March 2011, 11.[http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/code\\_of\\_practice\\_for\\_victims\\_of\\_crime.pdf](http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/code_of_practice_for_victims_of_crime.pdf)



Northern Ireland  
Assembly

Research and Library Service  
Research Paper

28 October 2011

**Fiona O'Connell**

# Victims and Witnesses in the Criminal Justice System: Good Practice

This research paper provides information on examples of good practice initiatives in a range of jurisdictions including Northern Ireland in improving the experiences of victims and witnesses in the criminal justice system

## Key Points

This research paper has identified examples of good practice in a range of jurisdictions in improving services to victims and witnesses. Some of these good practice models already exist in Northern Ireland. However there are currently some gaps which have been considered but have not been implemented as yet in Northern Ireland.

In England and Wales, there is a statutory code of practice for victims and witnesses of crime. In Northern Ireland, there is a Code of Practice for Victims and Witnesses which currently is not on a statutory footing. The Department of Justice (DoJ) has indicated it plans to place the requirement for a code of practice for victims of crime on a statutory footing, however the detail of the provisions will remain non statutory to ensure flexibility of the code.

In England and Wales, a Victims Commissioner was appointed to promote the interests of victims and witnesses of crime. The creation of a Commissioner for Victims and Witnesses of Crime for NI has been considered by the Criminal Justice Review Team in 2000 and the Criminal Justice Inspection Northern Ireland (CJINI) in 2005 making conditional recommendations that a Victims' Commissioner should be considered if there wasn't sufficient progress. It has been suggested by Victim Support NI that this issue will continue to be debated.

CJINI has suggested that Witness Care Units (WCUs) could address some of the issues related to securing attendance of victims and witnesses at court. WCUs exist in England and Wales and have been viewed as successful in securing higher levels of attendance at court. However some gaps have been identified, particularly for victims whose cases do not get to court or where the perpetrator is not detected. The DoJ has included an action to develop a model for Witness Care Units in its Victims and Witnesses Action Plan 2011/12.

Research suggests victims and witnesses in civil proceedings should be entitled to the same support as victims and witnesses in criminal proceedings. The Northern Ireland Law Commission reported there was some excellent practice in Northern Ireland courts and recommended a statutory scheme of special measures in civil proceedings would enhance this good practice.

Some initiatives are being implemented to improve the experience of victims of domestic violence in NI. These include new listing arrangements in Londonderry Magistrates' Court criminal cases in domestic violence cases and a commitment to appoint Independent Domestic Violence Advisors (IDVA). Special Domestic Violence Courts have been established in England and Wales, and Glasgow. The Northern Ireland Courts and Tribunals Service are leading on a feasibility study on specialist courts in NI.

The Department of Justice's (DOJ) Guide Achieving Best Evidence contains a number of good practice recommendations set out in the NSPCC good practice guidance in relation to dealing with young witnesses from the pre-trial to post trial stages. Research by the QUB/NSPCC in 2011 identifies a number of problems experienced by young witness in relation to the criminal justice system and makes 11 recommendations. These have been accepted by the Department of Justice who indicated will take forward the recommendations in the Victim and Witnesses Action Plan 2011/12.

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## **Key Points**

- 1 Introduction
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- 7 Police Programmes
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# 1 Introduction

This paper discusses some examples of good practice in terms of provision for victims and witnesses in the criminal justice system. It identifies systems of enhancing the victim's standing in court proceedings, government led initiatives such as policy centres or victims' charters, victim support services, police programmes, inter agency cooperation, victims' champions, witness care units, special measures in civil proceedings, initiatives to deal with the impact of delays in trial, domestic violence initiatives, equality and diversity measures, and measures in dealing with child witnesses.

## 2 Enhancing Victim's 'Standing' in Court Proceedings

One school of thought in academic literature to enhance victims' standing in the criminal justice process is to adopt a participatory rights approach. It has been suggested that the adversarial system is not conducive to enhancing victims' participatory rights and that much could be learnt from continental inquisitorial systems.<sup>1</sup> For example in Germany, victims of certain serious offences or relatives of murder victims may act as subsidiary prosecutors; however lawyers are often appointed for this purpose.<sup>2</sup> As subsidiary prosecutors, victims are entitled to certain participatory rights such as the right to be present at all stages of the process; to put additional questions to witnesses; to provide additional evidence or make a statement or present a claim for compensation.<sup>3</sup> This process achieves the balance of recognising the special status of the victim whilst acknowledging the role of the state in prosecuting the crime.<sup>4</sup> It is acknowledged that there has been a low rate of participation in this process, often due to a lack of information about the process and the model is underdeveloped. However, victims who did participate reported that the system had a positive effect.<sup>5</sup> Another continental model is the *partie civile* procedure which acknowledges the victim's status as a separate party in the trial.<sup>6</sup> The procedure confers three important rights on the victim: to initiate a prosecution; the right to participate and be heard as a party in a prosecution; and the right to pursue a claim of civil damages in a criminal prosecution.<sup>7</sup> Research indicates that, despite its advantages, the *partie civile* system is not perfect as many victims do not become aware of their rights or do not choose to go through this process.<sup>8</sup> Academic research also suggests those who participate in the *partie civile* procedure are no better off than counterparts in the English criminal justice system and concerns have been raised that the procedure could add to costs and create delay.<sup>9</sup>

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- 1 J Doak "Victims' Rights in Criminal Trials: Prospects for Participation" 32 *Journal of Law and Society* 2005 . 294, 307: See also J Doak "Victims and the Sentencing Process: Developing Participatory Rights" 29 *Legal Studies*, 651 2009,
  - 2 J Doak "Victims' Rights in Criminal Trials: Prospects for Participation" 32 *Journal of Law and Society* 2005. 294, 315
  - 3 J Doak "Victims' Rights in Criminal Trials: Prospects for Participation" 32 *Journal of Law and Society* 2005. 294, 308
  - 4 J Doak "Victims' Rights in Criminal Trials: Prospects for Participation" 32 *Journal of Law and Society* 2005. 294, 308.
  - 5 J Doak "Victims' Rights in Criminal Trials: Prospects for Participation" 32 *Journal of Law and Society* 2005. 294, 30
  - 6 J Doak "Victims' Rights in Criminal Trials: Prospects for Participation" 32 *Journal of Law and Society* 2005. 294, 310.
  - 7 J Doak "Victims' Rights in Criminal Trials: Prospects for Participation" 32 *Journal of Law and Society* 2005. 294, 311.
  - 8 I Waller "Crime Victims: Doing Justice To Their Support and Protection" European Institute for Crime Prevention and Control Affiliated with the United Nations, 45
  - 9 J Spencer "The Victim and the Prosecutor" in A Bottoms and JV Roberts "Hearing the Victim: Adversarial justice, crime victims and the State" Willan Publishing, Devon, 154.
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### 3 Restorative Justice

Research indicates that restorative justice initiatives mainstreamed into the criminal justice system are examples of good practice. One view is that in order to effectively realise victims' rights, there is a need for a better model of criminal justice and that increasing the use of restorative justice techniques could result in a more inclusionary means of sentencing in cases where the defendant pleads guilty.<sup>10</sup>

Research has identified a model in France as an example of good practice. France has been focussing on assistance and mediation since 1986, when other countries were only focusing on assistance for victims. L'Institut National d'Aide Aux Victimes et de Mediation (INAVEM) was established as a national voluntary organisation to co-ordinate and support victim assistance and mediation throughout France.<sup>11</sup> In the UK, there are a number of restorative justice schemes located within the criminal justice system which offer redress to victims.<sup>12</sup> Examples include:

- The Crime and Disorder Act 1998 which aims to deal with juvenile offending and contains restorative justice principles such as reparation orders;<sup>13</sup>
- The Youth Justice and Criminal Evidence Act 1999 which contains referral orders as a disposal for first time low level juvenile offenders.<sup>14</sup> These are designed to divert young offenders from 10-17 years from court to a Youth Offender Panel. The Panel offers the young person the opportunity to make restoration to the victim, take responsibility for the consequences of their actions and reintegrate in to the community.<sup>15</sup>
- The Justice (Northern Ireland) Act 2002 provides for the vast majority of offences to be dealt with through two types of restorative youth conferences: diversionary and court ordered.<sup>16</sup> It has been highlighted that in the Northern Ireland model, the level of victim participation is high compared to other restorative initiatives.<sup>17</sup>

Whilst restorative justice initiatives have been welcomed and acknowledged as a process can be beneficial for victims, restorative justice models are not primarily designed as a victim service. One view is that "the idea that restorative justice has been designed as a service for victims is highly questionable" as it was introduced with the aim of preventing reoffending."<sup>18</sup> One factor highlighted is the timing of the offer of restorative justice which depends on the point that the case has reached in the criminal justice process, rather than the point of the victims' recovery.<sup>19</sup>

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10 J Doak (2008) "Victims' Rights, Human Rights and Criminal Justice: Reconceiving the Role of Third Parties". 254  
 11 I Waller "Crime Victims: Doing Justice To Their Support and Protection" European Institute for Crime Prevention and Control Affiliated with the United Nations, 43  
 12 J Doak (2008) "Victims' Rights, Human Rights and Criminal Justice: Reconceiving the Role of Third Parties". 257  
 13 J Doak (2008) "Victims' Rights, Human Rights and Criminal Justice: Reconceiving the Role of Third Parties". 257  
 14 J Doak (2008) "Victims' Rights, Human Rights and Criminal Justice: Reconceiving the Role of Third Parties". 257  
 15 J Doak (2008) "Victims' Rights, Human Rights and Criminal Justice: Reconceiving the Role of Third Parties" 258  
 16 J Doak (2008) "Victims' Rights, Human Rights and Criminal Justice: Reconceiving the Role of Third Parties" 259  
 17 J Doak (2008) "Victims' Rights, Human Rights and Criminal Justice: Reconceiving the Role of Third Parties" 259  
 18 H Reeve and P Dunn "The status of crime victims in the twenty-first century", in A Bottoms and JV Roberts "Hearing the Victim: adversarial justice, crime victims and the state", 65  
 19 H Reeve and P Dunn "The status of crime victims in the twenty-first century", in A Bottoms and JV Roberts "Hearing the Victim: adversarial justice, crime victims and the state", 65

## 4 Government policy centres for victims of crime

Some good practice approaches identified in the literature include the development of dedicated government policy centres for victims of crime, government led victims' programmes and victims' charters. An example of a government policy centre is the Office for Victims of Crime (OVC) in the Department of Justice in the United States which has been described as "a unique and inspiring example of a national responsibility centre."<sup>20</sup> The OVC was established in 1988 under the Victims of Crime Act of 1984. The OVC is tasked by Congress with administering the Crime Victims' Fund. The fund is mainly comprised of criminal fines, special assessments and bond forfeitures from convicted federal offenders.<sup>21</sup> The fund supports a number of programmes including:<sup>22</sup>

- State crime victim compensation programme formula grants which supplements state funds for reimbursing victims of violent crimes for out of pocket expenses that result from crime;
- State victim assistance programme formula grants which supports providers who supply services directly to victims;
- OVC discretionary grants and training and technical expertise assistance to enhance expertise of victim service providers programme evaluations, fellowships and victims of federal crimes;
- Victim-witness co-ordinators in US Attorneys' offices;
- The Federal Victim Notification System which provides a means for notifying victims of federal crimes about release or detention of offenders;
- The Children's Justice Act which provides funding and grants to improve the investigation and prosecution of child abuse and neglect cases in certain communities.

The OVC works to raise awareness of victims' issues, promotes compliance with victims' rights laws, provides training and technical assistance to service providers and other professionals and develops new resources such as innovative technological approaches.<sup>23</sup>

In Northern Ireland, there is not a government policy centre solely focusing on victims of crime. However, the Justice Development Division within the Department of Justice leads the delivery of cross cutting initiatives to improve services to victims and witnesses as well as initiatives to improve the joined up operation of the justice system, including work to speed up justice, providing electronic information sharing through the Causeway system and enhance public protection, develops policy around sex offenders and recalls to custody offenders who have breached their terms of licence in the community.<sup>24</sup> In order to improve services for victims, the Division works through a cross agency Victims and Witness steering group, this also includes representatives from the voluntary sector. The division leads on the co-ordinating efforts to deliver the five year "Bridging the Gap" strategy for victims and witnesses and provides financial support to Victim Support NI.<sup>25</sup>

20 I Waller "Crime Victims: Doing Justice To Their Support and Protection" European Institute for Crime Prevention and Control Affiliated with the United Nations, 32.

21 Office for the Victims of Crime "Report to the Nation: Fiscal Years 2007-2008" 2009, ix. <http://www.ojp.usdoj.gov/ovc/welcovc/reporttonation2009/ReporttoNation09Part1.pdf>

22 Office for the Victims of Crime "Report to the Nation: Fiscal Years 2007-2008" 2009, 8. <http://www.ojp.usdoj.gov/ovc/welcovc/reporttonation2009/ReporttoNation09Part1.pdf>

23 Office for the Victims of Crime "Report to the Nation: Fiscal Years 2007-2008" 2009, ix. <http://www.ojp.usdoj.gov/ovc/welcovc/reporttonation2009/ReporttoNation09Part1.pdf>

24 Department of Justice, Justice Policy Directorate "Briefing for the Justice Committee Meeting on 9 June 2011", 7

25 Department of Justice, Justice Policy Directorate "Briefing for the Justice Committee Meeting on 9 June 2011", 8

The Victim Empowerment Programme (VEP) in South Africa is a key part of the national crime prevention strategy.<sup>26</sup> It is an inter-departmental and inter-sectoral programme led by the Department of Social Development.<sup>27</sup> There are representatives for the Departments of Health, Safety and Security, Justice and groups from the NGO sector. The Department is responsible for co-ordinating, managing and facilitating the development and implementation of victim empowerment policies, services and programmes.<sup>28</sup> The Programme has a number of objectives:<sup>29</sup>

- Policy and legislation;
- Management in ensuring effective VEP governance and management systems;
- Service Delivery;
- Training and Capacity of VEP service providers;
- Research monitoring and evaluation of VEP projects on victims and the development of VEP projects on victims.

The VEP targets a number of priority groups including:<sup>30</sup>

- Women and children;
- People with disabilities and older persons;
- Youth (teenage girls and boys);
- Men and boys;
- Victims of human trafficking, sexual assault, rape and domestic violence.

Some achievements of the VEP include the establishment of one stop centres for victims of crime and violence, a number of victim empowerment projects run by NGOs, appointment of a number of VEP co-ordinators and increases in the number of shelters for female victims of domestic violence.<sup>31</sup>

## 5 Victims' Statutes and Codes of Practice

In Northern Ireland, CJINI found that victims and witnesses were expecting to have as a minimum comparable standards as available to citizens elsewhere in the United Kingdom, in particular highlighting the development of the Victims Act.<sup>32</sup> The Domestic Violence, Crime and Victims Act 2004 provides for a code of practice as to the services to be provided

26 I Waller "Crime Victims: Doing Justice To Their Support and Protection" European Institute for Crime Prevention and Control Affiliated with the United Nations, 34

27 I Waller "Crime Victims: Doing Justice To Their Support and Protection" European Institute for Crime Prevention and Control Affiliated with the United Nations, 34

28 Presentation of the Victim Empowerment Programme by Conny Nxumalo, 15 September 2009, <http://www.pmg.org.za/files/docs/090915overview.ppt>

29 Presentation of the Victim Empowerment Programme by Conny Nxumalo, 15 September 2009, <http://www.pmg.org.za/files/docs/090915overview.ppt>

30 Presentation of the Victim Empowerment Programme by Conny Nxumalo, 15 September 2009, <http://www.pmg.org.za/files/docs/090915overview.ppt>

31 Presentation of the Victim Empowerment Programme by Conny Nxumalo, 15 September 2009, <http://www.pmg.org.za/files/docs/090915overview.ppt>

Presentation of the Victim Empowerment Programme by Conny Nxumalo, 15 September 2009, <http://www.pmg.org.za/files/docs/090915overview.ppt>

32 Criminal Justice Inspection Northern Ireland "Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System" July 2005,17, <http://www.cjini.org/CJNI/files/ce/ceda45b5-8b15-4f7b-a2a4-9dfe1902eca4.pdf>

to victims of crime.<sup>33</sup> The Secretary of State may revise the code but proposed revisions cannot reduce the quality or extent of services.<sup>34</sup> The Code of Practice provides victims with statutory rights to information regarding services that victims of crime are entitled to.<sup>35</sup> However the organisations listed in the Code of practice are under no obligation to provide services beyond the minimum requirements set out in the code.<sup>36</sup> Failure not to comply with the code does not in itself give rise in civil or criminal liability but a court can take the failure into account when determining a question in proceedings.<sup>37</sup> Section 35 of the legislation enshrines victims' rights to make representations and receive information in cases where an offender has been convicted of a violent or a sexual offence and has been sentenced to a prison sentence of more than 12 months imprisonment. In such cases the local Probation Board must take all reasonable steps to ascertain whether a victim of the offence wishes to make representations to the Board about matters relating to licence conditions or supervision requirements in the event of release. The Local Probation Board has the same responsibilities in cases involving offenders who have been convicted of violent or sexual offences but the court has given a hospital direction in addition to a prison sentence.<sup>38</sup> The legislation provides for a complaints mechanism which enables the Parliamentary Commissioner for Administration to investigate and report on complaints that a duty under the code of practice has been breached or that a person has failed to comply with a duty under the code.<sup>39</sup>

The legislation also provides for the appointment of a Victim's Commissioner by the Secretary of State in consultation with the Attorney General and Lord Chancellor.<sup>40</sup> In addition to the appointment of a Victims' Commissioner, the Secretary of State is required to appoint a Victims' Advisory Panel which can be consulted on matters relating to victims of crime and anti-social behaviour.<sup>41</sup> Aspects of these developments have not been without criticism. The Victims' Commissioner for England and Wales suggests that whilst the creation of the statutory code has been a significant development, its impact has been limited as the rights and entitlements are not enforceable.<sup>42</sup> It is reported that there is no enforcement available for failure to comply with the code and it is rarely measured whether agencies meet the standards. It is reported if the public had greater awareness of the Code of Practice, perhaps victims would be more demanding of entitlements.<sup>43</sup> Another area of concern is the complaints system which requires persons wishing to make complaints to apply to the Parliamentary Commissioner.<sup>44</sup> The Victims' Commissioner draws attention to the process where applications have to be made through the person's Member of Parliament. It suggested that since 2006, 58 complaints have been dealt with, only 2 complaints have been investigated as the others fell outside the remit of the Commissioner and only 1 complaint

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- 33 Section 32 of the Domestic Violence, Crime and Victims Act 2004
- 34 Section 33 (9) of the Domestic Violence, Crime and Victims Act 2004
- 35 Helen Reeves and Peter Dunn "The Status of Crime Victims and Witnesses in the 21st Century" in A Bottoms and JV Roberts "Hearing the Victim: Adversarial Justice, Crime Victims and the State" Willan Publishing, Devon, 53.
- 36 Criminal Justice System "The Code of Practice for Victims of Crime" 3, <http://webarchive.nationalarchives.gov.uk/+http://www.homeoffice.gov.uk/documents/victims-code-of-practice2835.pdf?view=Binary>
- 37 Section 34 of the Domestic Violence, Crime and Victims Act 2004
- 38 Section 39 of the Domestic, Violence, Crime and Victims Act 2004
- 39 Section 47 of the Domestic Violence, Crime and Victims Act 2004. See explanatory notes to the Domestic Violence, Crime and Victims Act 2004, para 135 <http://www.legislation.gov.uk/ukpga/2004/28/notes/division/4/3/8/6>
- 40 Section 48 of the Domestic Violence, Crime and Victims Act 2004
- 41 Section 55 of the Domestic Violence, Crime and Victims Act 2004.
- 42 Commissioner for Victims and Witnesses "The Poor Relations- Victims in the criminal justice system", July 2010, 8, <http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/about/docs/victims-in-justice-system.pdf>
- 43 Commissioner for Victims and Witnesses "The Poor Relations- Victims in the criminal justice system", July 2010, 8 <http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/about/docs/victims-in-justice-system.pdf>
- 44 See section 47 of the Domestic Violence, Crime and Victims Act 2004

has been upheld.<sup>45</sup> It has been argued that the system makes it difficult for victims to complain.<sup>46</sup>

Despite the fact the legislation provides for a code of practice in England and Wales, a recent report by Victim Support suggests that there has been a failure to meet the requirements set out in the Code of Practice to keep victims informed. The report found that:<sup>47</sup>

- Victims are only kept updated about what is happening in their case to a satisfactory level in around half of all reported incidents;
- In around a third of reported incidents, the victim hears nothing from the authorities after the first contact with the police after they report the crime. This equate to millions of victims being left in the dark every year.

Victim Support in England and Wales suggest that victims' right to information needs to be given greater legal force and that action needs to be taken to make the Code more robust and credible and that the fact that the UK has opted into the EU directive on establishing minimum standards for the rights, support and protection for Victims of Crime is a step in the right direction.<sup>48</sup>

The Department of Justice in Northern Ireland has indicated in its summary of responses to the consultation on the Code of Practice for Victims of Crime that it plans to place the requirement for a code of practice for victims of crime on a statutory footing, however the detail of the provisions will remain non statutory to ensure flexibility of the code.<sup>49</sup> Victim Support NI notes that the provisions of the code are not on a statutory footing and has called for "clearer commitments so that organisations can be held to account in the provision of information and support to victims as well as more recourse when organisations feel let down."<sup>50</sup>

## 6 Victim Support Services

The provision of support services by voluntary organisations to victims of has been identified as good practice, with particular mention given of Victim Support in England and Wales and in Northern Ireland.<sup>51</sup> Victim Support Northern Ireland (VSNI) provides a free and confidential service to victims of crime and assists almost 30,000 people each year.<sup>52</sup> Services offered include:<sup>53</sup>

- A Criminal Injuries Compensation Service;

45 Commissioner for Victims and Witnesses "The Poor Relations- Victims in the criminal justice system", July 2010 , 10 <http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/about/docs/victims-in-justice-system.pdf>

46 Commissioner for Victims and Witnesses "The Poor Relations- Victims in the criminal justice system", July 2010 , 8 <http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/about/docs/victims-in-justice-system.pdf>

47 Victim Support "Left in the Dark: Why Victims of Crime need to be kept informed", 3 [http://www.victimsupport.com/About%20us/News/2011/09/~/\\_media/Files/Publications/ResearchReports/LeftintheDark-V2-FINAL](http://www.victimsupport.com/About%20us/News/2011/09/~/_media/Files/Publications/ResearchReports/LeftintheDark-V2-FINAL)

48 Victim Support "Left in the Dark: Why Victims of Crime need to be kept informed", 5 [http://www.victimsupport.com/About%20us/News/2011/09/~/\\_media/Files/Publications/ResearchReports/LeftintheDark-V2-FINAL](http://www.victimsupport.com/About%20us/News/2011/09/~/_media/Files/Publications/ResearchReports/LeftintheDark-V2-FINAL)

49 Department of Justice "Summary of Responses to Consultation on a Code of Practice for Victims of Crime", [http://www.dojni.gov.uk/index/public-consultations/archive-consultations/summary\\_of\\_responses\\_to\\_the\\_public\\_consultation\\_on\\_a\\_code\\_of\\_practice\\_for\\_victims\\_of\\_crime.pdf](http://www.dojni.gov.uk/index/public-consultations/archive-consultations/summary_of_responses_to_the_public_consultation_on_a_code_of_practice_for_victims_of_crime.pdf)

50 Victim Support Northern Ireland "Briefing for Political Manifestos" 2011

51 I Waller "Crime Victims: Doing Justice to Their Support and Protection" European Institute for Crime Prevention and Control Affiliated with the United Nations, 35.

52 <http://www.victimsupportni.co.uk/what-we-do>

53 <http://www.victimsupportni.co.uk/what-we-do>



- Community Service which offers information on police procedure, liaison with other organisations; and advice and information on compensation and insurance matters; and
- Witness Service to provide emotional support and practical information to witnesses, victims and their family.

The Department of Justice is VSNIs principal funder, providing core funding of £2.2m in 2010/11.<sup>54</sup> VSNI has received core funding of £2.0m per annum between 2006 and 2009 and £2.2m per year between 2009 and 2011.<sup>55</sup> During the period 2009/10 VSNI received 26,453 victim referrals, assisted 2,107 claimants for criminal injuries compensation and provided support for 7,109 victims and witnesses at court.<sup>56</sup>

Other models of good practice identified include collaborative approaches between judiciary and NGOs for example in Venezuela the Red Cross and Supreme Court have collaborated to develop a hotline and services for victims of crime.<sup>57</sup> Good practice models also include the development of victim support to meet the needs of specific groups such as women and children. Examples including the Crime Victim Assistance Centre in Argentina which provides services to victims of rape and family violence and the Child Witness Project in Canada.<sup>58</sup>

## 7 Police Programmes

Police agencies in some jurisdictions have developed good practice models to meet the needs of victims of crime. Often the police are the first point of contact in the criminal justice system for victims of crime. The Victim Assistance Strategy and Unit in Canada is described as “an inspiring model for police agencies”.<sup>59</sup> A police officer is required to provide the victim with a card that contains information on key contacts including local distress centres, locksmiths, criminal injuries compensation, crime prevention unit and other services. This programme also involves an outreach service and involves more than 100 victim advocates who can provide assistance to victims who have suffered severe trauma as a result of the offence.<sup>60</sup>

Other examples of good practice have been identified in other jurisdictions’ police programmes. The Police Support Programmes for Crime Victims in Japan which is responsible for the protection of crime victims and providing assistance which has a number of responsibilities including the protection of crime victims, providing assistance where a crime occurs, preventing re-occurrence of a crime and raising public awareness with regards to victims issues.<sup>61</sup> The Family Consultant Service in Ontario, Canada provides mental health crisis intervention teams in domestic violence cases. It is suggested that this is a cost effective way of reducing police time in dealing with repeat calls and provides a lasting service to victims.<sup>62</sup> This programme has been described as unique as it can link with other

54 Information obtained from the Department of Justice via email 07/09/2011

55 Information obtained from the Department of Justice via email 07/09/2011

56 Department of Justice “Digest of Information on the Northern Ireland Criminal Justice System” Spring 2011, Vol 2, 28.

57 I Waller (2003) “Crime Victims: Doing Justice to Their Support and Protection” European Institute for Crime Prevention and Control Affiliated with the United Nations, 36.

58 I Waller (2003) “Crime Victims: Doing Justice to Their Support and Protection” European Institute for Crime Prevention and Control Affiliated with the United Nations, 37

59 I Waller (2003) “Crime Victims: Doing Justice to Their Support and Protection” European Institute for Crime Prevention and Control Affiliated with the United Nations, 40

60 I Waller (2003) “Crime Victims: Doing Justice to Their Support and Protection” European Institute for Crime Prevention and Control Affiliated with the United Nations, 41

61 I Waller (2003) “Crime Victims: Doing Justice to Their Support and Protection” European Institute for Crime Prevention and Control Affiliated with the United Nations, 41-42.

62 I Waller (2003) “Crime Victims: Doing Justice to Their Support and Protection” European Institute for Crime Prevention and Control Affiliated with the United Nations, 41

agencies to provide support to victims on a long term basis. All female police stations have been established in Brazil to provide assistance to female victims of gender related crimes. These police stations have the power to receive complaints of and investigate crimes against women and children. They provide victimised women with appropriate supports services and utilise all female patrol cars when investigating incidents.<sup>63</sup>

## 8 Interagency Co-operation and the use of Protocols

Research has indicated that inter-agency co-operation and the use of protocols are examples of good practice in dealing with victims and witnesses. Specific examples highlighted in Northern Ireland include:<sup>64</sup>

- The Foyle District Partnership Protocol to tackle homophobic attacks, hate crime, fear of attacks, suicide and self-harm and domestic violence;
- The Victim Support, Court Witness Service, NSPCC and NI Court Service Protocol to support vulnerable victims and intimidated witnesses.

Good practice has also been identified in links between the justice agencies and groups in the voluntary and community sector dealing with domestic violence issues. One such partnership is the Multi-Agency Risk Assessment Conference (MARAC). This conference is a monthly meeting led by the police and includes partners such as Women's Aid, Northern Ireland Housing Executive and the Probation Board Northern Ireland. The aim of the model is to share information about high risk victims, develop safety plans and provide support.<sup>65</sup> The model has been highlighted as beneficial as inter-agency relationships have improved due to greater information sharing, and a greater understanding of the roles and responsibilities of each of the agencies in tackling domestic violence.<sup>66</sup>

In Scotland the Joint Protocol between the Association of Chief Police Officers in Scotland (ACPOS) and the Crown Office and Procurator Fiscal Service (COPFS) on domestic abuse has been identified as good practice.<sup>67</sup> The Protocol provides clear instruction on the investigation, practices and processes to be deployed by both agencies.<sup>68</sup>

## 9 Victims' Champion for Victims and Witnesses

The Victims' Champion Sara Payne in England and Wales reported that victims need a champion or someone to advocate on behalf of the victim who would act as a single point of contact. This champion or advocate is someone that victims can easily reach and that can bring many of the criminal justice agencies involved in meeting the needs of victims

63 I Waller (2003) "Crime Victims: Doing Justice to Their Support and Protection" European Institute for Crime Prevention and Control Affiliated with the United Nations, 42

64 Criminal Justice Inspection Northern Ireland "Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System" July 2005,60, <http://www.cjini.org/CJNI/files/ce/ceda45b5-8b15-4f7b-a2a4-9dfe1902eca4.pdf>

65 Criminal Justice Inspection Northern Ireland "Domestic Violence and Abuse: A Thematic Inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland" ,19. <http://www.cjini.org/CJNI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>

66 Criminal Justice Inspection Northern Ireland "Domestic Violence and Abuse: A Thematic Inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland" ,20. <http://www.cjini.org/CJNI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>

67 Note that the COPFS is responsible for the prosecution of crime in Scotland. See Inspectorate of Prosecution in Scotland and HM Constabulary for Scotland Joint Report "Victims in the Criminal Justice System" October 2010, 39.

68 Note that the COPFS is responsible for the prosecution of crime in Scotland. See Inspectorate of Prosecution in Scotland and HM Constabulary for Scotland Joint Report "Victims in the Criminal Justice System" October 2010, 39.

together as part of an “end to end process”.<sup>69</sup> It was suggested that Victim Support are often unable to obtain information on behalf of victims as they have no statutory right of access to information or to challenge agencies on behalf of victims.<sup>70</sup> Furthermore Witness Care Units (WCUs) only support witnesses who are going to court and it was highlighted that a vast number of cases do not get this far in the process.<sup>71</sup>

In England and Wales, a Commissioner for Victims and Witnesses was appointed as a result of the Domestic Violence, Crimes and Victims Act 2004. The functions of the Commissioner include: promoting the interests of victims and witnesses; encourage good practice; keep under review the code of practice.<sup>72</sup> In performing these functions, the Victims' Commissioner may: make proposals to the Secretary of State for amending the Code; make recommendations to an authority within their remit; commission research; and consult with persons they think appropriate.<sup>73</sup> The Victims' Commissioner for England and Wales, Louise Casey, has recently resigned and at this time it is not clear if another appointment will be made.<sup>74</sup>

It should be noted that the appointment of an advocate for victims of crime in Northern Ireland has been considered in Northern Ireland. The Criminal Justice Review Team suggested in 2000 that the appointment of a victims' advocate should be considered if new arrangements on behalf of victims were not seen to be working adequately.<sup>75</sup> The CJINI indicated in its thematic report on victims and witnesses in 2005 that insufficient progress had been made in improving services to victims and witnesses and considered that it was appropriate to recommend the creation of a victims' commissioner. However this was a conditional recommendation to give the agencies more time to develop services.<sup>76</sup> The follow up inspection report in 2008 reported that the recommendation had been achieved in relation to action planning as the Vulnerable Victims and Intimidated Witnesses Steering Group had developed an action plan. However concerns were raised regarding the timeliness of the progress and the capacity of the VVIW to deliver change.<sup>77</sup> Victim Support NI's Strategic Plan 2008/11 highlights that one of the critical assumptions for the future is that the issue of an advocate for victims of crime will continue to be debated.<sup>78</sup>

## 10 Witness Care Units

CJINI in its thematic inspection in 2005 recommended that the Criminal Justice Board (CJB) should set up a jointly owned victims and witnesses information unit which would act as a single point of contact to the criminal justice system to assist victims and witnesses with

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- 69 Sara Payne “Redefining Justice: Addressing the individual needs of victims and witnesses” November 2009, 13,14
- 70 Sara Payne “Redefining Justice: Addressing the individual needs of victims and witnesses” November 2009, 13
- 71 Sara Payne “Redefining Justice: Addressing the individual needs of victims and witnesses” November 2009, 13, 14
- 72 Section 49 (1) (a)-(c) of the Domestic Violence, Crime and Victims Act 2004
- 73 Section 49 (2) (a)-(e) of the Domestic Violence, Crime and Victims Act 2004.
- 74 BBC News “Victims' Commissioner Louise Casey quits for new role” 12 October 2011, <http://www.bbc.co.uk/news/uk-politics-15278161>
- 75 Criminal Justice Review Group (2000) “A Review of the Criminal Justice System in Northern Ireland”, 324 [http://www.nio.gov.uk/review\\_of\\_the\\_criminal\\_justice\\_system\\_in\\_northern\\_ireland.pdf](http://www.nio.gov.uk/review_of_the_criminal_justice_system_in_northern_ireland.pdf)
- 76 Criminal Justice Inspection Northern Ireland “Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System” July 2005, 20. <http://www.cjini.org/CJINI/files/ce/ceda45b5-8b15-4f7b-a2a4-9dfe1902eca4.pdf>
- 77 Criminal Justice inspection Northern Ireland “Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System in Northern Ireland; A Follow up review of the July 2005 Inspection Recommendations”, 6. <http://www.cjini.org/CJINI/files/b9/b91c68e8-fb98-4e7d-aaab-3d0745ed5735.pdf>
- 78 Victim Support NI Strategic Plan 2008-11 “Seeing the Future Through the Victims' Eyes” [http://www.victimsupportni.co.uk/userFiles/File/VS%20-%20Strategic%20Plan%202008-11%20Final\(1\).pdf](http://www.victimsupportni.co.uk/userFiles/File/VS%20-%20Strategic%20Plan%202008-11%20Final(1).pdf), 8.
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information on progress of cases and referrals to bodies for specialised support.<sup>79</sup> CJINI drew attention to similar models known as Witness Care Units (WCUs) that exist in England and Wales and it will be useful to consider this model to ascertain any possible lessons to be learnt. WCUs are jointly run by the police and the Crown Prosecution Service (CPS) in England and Wales and 165 units have been established.<sup>80</sup> Witnesses are allocated a Witness Care Officer to provide them with information and assistance.<sup>81</sup> They are also updated on any developments in the case.<sup>82</sup> WCUs identify practical needs of witnesses at early stages such as childcare whilst attending court and arranging with employers time off work to attend court. Vulnerable or intimidated witnesses can be identified at an early stage to put special measure in place to assist them to give evidence in court.<sup>83</sup> WCUs have been viewed as successful, particularly by the government. It was reported to the House of Commons in 2006 by the Home Office Minister that the number of trials that did not go ahead due to non-attendance by witnesses declined from 908 in September 2004 to 727 in August 2005. However two concerns have been highlighted. First the resources required to prepare vulnerable witnesses is significant but no further funding has been provided. The second concern is that the units deal with victims and witnesses after an offender has been charged but only 3% of crimes reach the courts.<sup>84</sup> It has been suggested a gap exists as there are no similar provisions for victims in cases where the offender has not been detected, or where the investigation is at an early stage and these victims should also have a single point of contact for provision of better information.<sup>85</sup> It has recently been suggested by CJINI that WCUs similar to the England and Wales model could address some of the issues related to securing attendance of victims and witnesses at court and this will be explored further in its forthcoming thematic inspection report.<sup>86</sup> CJINI states that the data does not allow identification of when victims and witnesses do not appear at court however indicate that 43% of adjournments in adult cases are due to prosecution difficulties. CJINI suggest that this covers a number of reasons including absence of a victim, witnesses or a police officer.<sup>87</sup> It is also estimated by the PPS that the percentage of contested cases adjourned by the prosecution due to witness difficulties is 8%.<sup>88</sup> The Department of Justice in Northern Ireland contained an action to develop a model for witness care units and agree a way forward by March 2012 in its annual action plan for 2011-2012.<sup>89</sup>

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- 79 Criminal Justice Inspection Northern Ireland "Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System" July 2005, 19 <http://www.cjini.org/CJINI/files/ce/ceda45b5-8b15-4f7b-a2a4-9dfe1902eca4.pdf>
- 80 Helen Reeves and Peter Dunn "The status of crime victims and witnesses in the twenty-first century" in A Bottom and JV Roberts "Hearing the Victim: Adversarial justice, crime victims and the State" (2010) Willan Publishing, Devon, 56.
- 81 Helen Reeves and Peter Dunn "The status of crime victims and witnesses in the twenty-first century" in A Bottom and JV Roberts "Hearing the Victim: Adversarial justice, crime victims and the State" (2010) Willan Publishing, Devon, 55.
- 82 Helen Reeves and Peter Dunn "The status of crime victims and witnesses in the twenty-first century" in A Bottom and JV Roberts "Hearing the Victim: Adversarial justice, crime victims and the State" (2010) Willan Publishing, Devon, 56
- 83 Helen Reeves and Peter Dunn "The status of crime victims and witnesses in the twenty-first century" in A Bottom and JV Roberts "Hearing the Victim: Adversarial justice, crime victims and the State" (2010) Willan Publishing, Devon, 56
- 84 Helen Reeves and Peter Dunn "The status of crime victims and witnesses in the twenty-first century" in A Bottom and JV Roberts "Hearing the Victim: Adversarial justice, crime victims and the State" (2010) Willan Publishing, Devon, 57. This was a point also made by Sara Payne who highlighted that not all cases get to court and suggested the need for a victims champion or advocate as a single point of contact, see Sara Payne "Redefining Justice: Addressing the individual needs of victims and witnesses" November 2009, 13, 14.
- 85 Helen Reeves and Peter Dunn "The status of crime victims and witnesses in the twenty-first century" in A Bottom and JV Roberts "Hearing the Victim: Adversarial justice, crime victims and the State" (2010) Willan Publishing, Devon, 57
- 86 Criminal Justice Inspection Northern Ireland "Securing Attendance at Court" May 2011, vii <http://www.cjini.org/CJINI/files/32/32538c06-054e-4371-918e-e9ff15f5e76b.PDF>
- 87 Criminal Justice Inspection Northern Ireland "Securing Attendance at Court" May 2011, 10
- 88 Criminal Justice Inspection Northern Ireland "Securing Attendance at Court" May 2011, 10
- 89 Department of Justice Northern Ireland "Victims and Witness Annual Action Plan 2011-2012" [http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/victim\\_and\\_witness\\_annual\\_action\\_plan\\_2011-12.pdf](http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/victim_and_witness_annual_action_plan_2011-12.pdf)
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# 11 Extending Special Measures to Civil Proceedings

It has been suggested that research on special measures has been mainly focused on the criminal justice system, “but there is no reason to suppose that the experience of testifying in a civil court would be any less stressful for vulnerable witnesses.”<sup>90</sup> The Criminal Evidence (Northern Ireland) Order 1999 is a statutory scheme which enables vulnerable victims and witnesses to avail of special measures in criminal proceedings. This scheme was outlined in the previous paper on victims and witnesses. However The Northern Ireland Law Commission (NILC) has recently considered the issue of the use special measures in civil proceedings.<sup>91</sup> The report suggests that the current law and practice gives limited protection to witnesses who may have difficulties in giving evidence in civil proceedings.<sup>92</sup> The report also indicated that the current protections have not “evolved as a coherent and considered plan to address the difficulties of witnesses and many depend upon the discretion of the court.”<sup>93</sup> The NILC noted that there was some excellent practice in Northern Ireland courts amongst the judiciary and legal representatives, however it was suggested a statutory scheme would enhance this good practice.<sup>94</sup> The NILC therefore recommended that a scheme of special measures is put in place on a statutory basis in relation to civil proceedings in Northern Ireland.<sup>95</sup> The Commission recommends that child witnesses under the age of 18 should be eligible for special measures and that the entitlement is automatic.<sup>96</sup> The Commission also recommends that people who are suffering from mental illness, learning disability, personality disorder or physical disability should be eligible for special measures if the quality of their evidence is likely to be diminished because of that illness, disability or disorder.<sup>97</sup> The Commission also recommends that special measures should be available to persons where evidence may be diminished because a person is suffering from fear or distress as a result of testifying.<sup>98</sup> The Commission recommend a number of factors a court must take into account when satisfying itself that the quality of evidence given by a witness may be diminished by fear or distress of testifying in proceedings. These factors include:<sup>99</sup>

- The nature and circumstances of the matter to which the proceedings relate;
- The nature of the evidence which the witness is likely to give;
- The age of the witness;
- The relationship between the witness and any party to the proceedings;
- Race, domestic and employment circumstance of the witness, religious belief or political opinion and sexual orientation;
- Any behaviour towards the witness by any party to the proceedings; members of the family or associates; or any other person who is likely to be party to the proceedings.

The special measures recommended by the NILC in civil proceedings include:<sup>100</sup>

- the use of screens;

90 J Doak “One Size Fits All: The Case For Special Measures in Criminal Proceedings.” 58 N.I.R. Legal Q 459 2007, 488.

91 The Northern Ireland Law Commission “Report on Vulnerable Witnesses in Civil Proceedings” NILC10 (2011), available at [http://www.nilawcommission.gov.uk/report\\_vw\\_july\\_2011.pdf](http://www.nilawcommission.gov.uk/report_vw_july_2011.pdf)

92 The Northern Ireland Law Commission “Report on Vulnerable Witnesses in Civil Proceedings” NILC10 (2011), 6.

93 The Northern Ireland Law Commission “Report on Vulnerable Witnesses in Civil Proceedings” NILC10 (2011), 7.

94 The Northern Ireland Law Commission “Report on Vulnerable Witnesses in Civil Proceedings” NILC10 (2011), 7.

95 The Northern Ireland Law Commission “Report on Vulnerable Witnesses in Civil Proceedings” NILC10 (2011), 9, 79.

96 The Northern Ireland Law Commission “Report on Vulnerable Witnesses in Civil Proceedings” NILC10 (2011), 19, 20, 21.

97 The Northern Ireland Law Commission “Report on Vulnerable Witnesses in Civil Proceedings” NILC10 (2011), 31, 33.

98 The Northern Ireland Law Commission “Report on Vulnerable Witnesses in Civil Proceedings” NILC10 (2011), 80

99 The Northern Ireland Law Commission “Report on Vulnerable Witnesses in Civil Proceedings” NILC10 (2011), 80.

100 The Northern Ireland Law Commission “Report on Vulnerable Witnesses in Civil Proceedings” NILC10 (2011), 81



- removal of gowns and wigs in civil proceedings;
- Video-recording of a witnesses evidence –in-chief should be allowed in limited circumstances in relation to private and public law proceedings taken under the Children (Northern Ireland) Order 1995;
- The use of live television link;
- The use of intermediaries;
- The use of communication aids;
- That witnesses who give evidence by way of a live television link can avail of the services of a suitably trained supporter in the live television link room.

## 12 Initiatives to deal with the impact of delays in the system

One of the issues highlighted in literature facing victims in the criminal justice system is the impact of delays. The Victims' Champion in England and Wales, Sara Payne has used the analogy of a dentist's waiting room stating that "it is simply not acceptable to expect witnesses who have seen something traumatic to put their lives on hold and then come to court only to be dismissed until a later date."<sup>101</sup> However she identified good practice examples in listing of court cases to deal with the impact of delays Initiatives include a trial of the use of pagers and mobile phones in North Somerset Magistrates' Court which would enable witnesses to leave and then be contacted shortly before being called.<sup>102</sup> Research commissioned by the Northern Ireland Office on the views of victims and witnesses on their treatment in the criminal justice system indicated that 64% of those interviewed expressed a view that the introduction of mobiles and pagers would make them feel happier about giving evidence.<sup>103</sup> This research suggested that the use of mobiles or pagers was one of the developments either under consideration or due to be introduced into the criminal justice system in Northern Ireland.<sup>104</sup> CJINI in its thematic inspection on victims and witnesses in 2005 found no mobile phone or paging systems in place to allow victims and witnesses to have less waiting time in the court venue. It was recommended that the Court Witness Service and Youth Witness Service should co-ordinate with agencies in contested cases "to facilitate witness phasing" through the use of mobile phones or pagers.<sup>105</sup> However the 2008 follow up review noted that this recommendation had not been implemented and inspectors were advised that this issue needed to be considered within the wider policy context and would be proceeded with as part of the strategy.<sup>106</sup>

Good practice was identified in trying to reduce waiting time for victims and witnesses. It was reported that a number of courts which start at the end of the day do not call witnesses until the next day which enables "the administrative business to be addressed without inconveniencing witnesses."<sup>107</sup> In Norfolk, it was reported that where two trials are arranged

101 Sara Payne " Redefining Justice: Addressing the individual needs of victims and witnesses" November 2009, 23..

102 Sara Payne " Redefining Justice: Addressing the individual needs of victims and witnesses" November 2009, 23.

103 NIO (2004) "Victims' and Witnesses Views on their Treatment in the Criminal Justice System", NIO Research and Statistical Series: Report No 10, 64.

104 NIO (2004) "Victims' and Witnesses Views on their Treatment in the Criminal Justice System", NIO Research and Statistical Series: Report No 10,64.

105 Criminal Justice Inspection Northern Ireland "Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System" July 2005,37, <http://www.cjini.org/CJNI/files/ce/ceda45b5-8b15-4f7b-a2a4-9dfe1902eca4.pdf>

106 Criminal Justice inspection Northern Ireland "Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System in Northern Ireland; A Follow up review of the July 2005 Inspection Recommendations", 20.

107 Sara Payne " Redefining Justice: Addressing the individual needs of victims and witnesses" November 2009, 23



for the same magistrates' court room, one at 10am and the other 12 noon, witnesses in the second trial are asked not to arrive until 12 in order to minimise their waiting time.<sup>108</sup> In Northern Ireland, the DOJ Victims and Witnesses Strategic Action Plan 2010-2011 contains an action to initiate a pilot to reduce waiting times at court for victims and witnesses.<sup>109</sup> CJINI report that work on the pilot was due to commence between January and March 2011 and that one aspect of the work is to trial a system where witnesses within 30 minutes of the court would receive a call to attend rather than waiting at court for the case to be heard.<sup>110</sup>

In response to a request to the DOJ on an update of the pilot to reduce waiting times at court and whether the recommendation of CJINI to introduce witness phasing has been introduced, correspondence from the department has identified a number of initiatives that have been introduced to alleviate the impact of delays on victims and witnesses in Northern Ireland. NICTS Case Progression Officers support the judiciary in managing cases and priority is given to cases depending on a number of factors including whether special measures are required to enable vulnerable witnesses or young persons to give evidence by video link. Contested hearings at a number of Magistrates' Courts are given specific start times where possible. In some District Courts, Judges carry out a call over of cases at the beginning of court sittings. In the call over of cases, an assessment is made of those cases that are likely to run and the estimated length of time required. Witnesses may be permitted to leave the court building and return at a specified time if the court and prosecution agree. Witnesses must leave their mobile number so that they can be contacted. At some courts, police or expert witnesses remain on call so that they are able to continue with their desk duties until they are needed to give evidence. Options are also being explored to allow forensic science officers to give evidence by video link at an allocated time. Other initiatives to reduce waiting times include:

- Witness monitoring exercises where the non- police witnesses are asked about their experience and waiting times;
- The establishment of a Criminal Courts Committee by the Lord Chief Justice to improve case management;
- A journey mapping exercise with Women's Aid and new listing arrangements in Magistrates' Court criminal cases in Londonderry to minimise the amount of time victims of domestic violence have to wait at court for their case to be heard. This initiative is supported by Victim Support NI and Foyle Women's Aid.<sup>111</sup>

The Department states that recognised examples of good practice will be promoted as part of a package to reduce witness and victim waiting times in 2012.<sup>112</sup>

## 13 Dealing with Domestic Abuse Victims

CJINI in a report on the treatment of victims of domestic violence by the criminal justice system in 2010 have identified a number of good practice models that should be considered to improve services to victims of domestic violence.<sup>113</sup>

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- 108 HM Inspectorate of Court Administration "Valuing victims and witnesses: an overview of inspections undertaken during 2005" March 2006, 29.
- 109 Department of Justice "Strategic Action Plan for Victims and Witnesses 2010-2011" [http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/victims\\_and\\_witness\\_strategy.pdf.pdf](http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/victims_and_witness_strategy.pdf.pdf)
- 110 CJINI "Securing Attendance at Court", May 2011, 24, <http://www.cjini.org/CJINI/files/32/32538c06-054e-4371-918e-e9ff15f5e76b.PDF>
- 111 Information received on 13 September via email from the Department of Justice
- 112 Information received on 13 September via email from the Department of Justice
- 113 Criminal Justice Inspection Northern Ireland "Domestic Violence and Abuse: A Thematic Inspection of the Handling of Domestic Violence Cases by the Criminal Justice System in Northern Ireland", December 2010, <http://www.cjini.org/CJINI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>
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It was noted that call handlers did not have an aide-memoir in domestic violence incidents. CJINI recommended that the PSNI should develop a call taker checklist based on the model provided in the Association of Chief Police Officers (ACPO) Guidance on Investigating Domestic Abuse 2008 which would enable call handlers to support victims and gather evidence. CJINI also considered legislation which was introduced in England and Wales, the Crime and Security Act 2010 which enables the police to issue Domestic Violence Protection Orders (DVPOs). These orders last up to 14 days and prevent a suspected perpetrator from entering an address or contacting the victim. This enables the victims to have time to engage with appropriate support services and consider future options.<sup>114</sup> It was suggested that consideration should be given to introducing legislation in Northern Ireland which would enable the PSNI to issue DVPOs.<sup>115</sup> Other good examples highlighted in Northern Ireland include:<sup>116</sup>

- Creation of Domestic Abuse Officers in each district of the PSNI who focus on repeat offenders and more serious crimes. Responsibilities include undertaking risk assessments, provide support and advice to victims, making referrals and advising investigating officers;<sup>117</sup>
- One-stop surgeries in some areas where domestic abuse victims could seek advice from a range of agencies including Domestic Abuse Officers from the PSNI, Women's Aid, legal professionals and representatives from the housing sector;<sup>118</sup>
- The police and the Northern Ireland Housing Executive have also worked in partnership to provide a sanctuary room in two Housing Executive properties which provides the victim of domestic violence with a safe room to escape from a perpetrator of domestic violence.<sup>119</sup>

Other good practice models have been identified in England which could be considered in the Northern Ireland context such as the use of special courts for domestic violence cases (SDVCs) and Independent Domestic Violence Advisors (IDVAs).<sup>120</sup> The principles of the domestic violence courts include: access to lay advocates known as Independent Domestic Violence Advisors (IDVAs) who act as a liaison between the victim and the court; co-ordination of partner agencies; providing a victim and child friendly court and providing specialist

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114 Criminal Justice Inspection Northern Ireland "Domestic Violence and Abuse: A Thematic Inspection of the Handling of Domestic Violence Cases by the Criminal Justice System in Northern Ireland" , December 2010, 16, <http://www.cjini.org/CJINI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>

115 Criminal Justice Inspection Northern Ireland "Domestic Violence and Abuse: A Thematic Inspection of the Handling of Domestic Violence Cases by the Criminal Justice System in Northern Ireland" , December 2010, 16, <http://www.cjini.org/CJINI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>

116 Criminal Justice Inspection Northern Ireland "Domestic Violence and Abuse: A Thematic Inspection of the Handling of Domestic Violence Cases by the Criminal Justice System in Northern Ireland" , December 2010, 39, <http://www.cjini.org/CJINI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>

117 Criminal Justice Inspection Northern Ireland "Domestic Violence and Abuse: A Thematic Inspection of the Handling of Domestic Violence Cases by the Criminal Justice System in Northern Ireland" , December 2010, 9, <http://www.cjini.org/CJINI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>

118 Criminal Justice Inspection Northern Ireland "Domestic Violence and Abuse: A Thematic Inspection of the Handling of Domestic Violence Cases by the Criminal Justice System in Northern Ireland" , December 2010, 39, <http://www.cjini.org/CJINI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>

119 Criminal Justice Inspection Northern Ireland "Domestic Violence and Abuse: A Thematic Inspection of the Handling of Domestic Violence Cases by the Criminal Justice System in Northern Ireland" , December 2010, 39, <http://www.cjini.org/CJINI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>

120 Criminal Justice Inspection Northern Ireland "Domestic Violence and Abuse: A Thematic Inspection of the Handling of Domestic Violence Cases by the Criminal Justice System in Northern Ireland" , December 2010, 35, <http://www.cjini.org/CJINI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>

personnel trained in domestic violence awareness and procedures.<sup>121</sup> Some of the benefits highlighted in relation to SDVCs include:<sup>122</sup>

- A specialist court focusing on domestic violence as an issue;
- Cases treated seriously with commensurate sentences;
- A Specialist Court used as a model for training other agencies.

IDVAs are central to the MARAC process in England and Wales and are trained specialists whose main responsibilities include risk assessment, crisis intervention and safety planning, supporting victims, multi-agency working and institutional advocacy.<sup>123</sup> Research has highlighted that the contribution of IDVAs to multi-agency partnership “cannot be overstated”.<sup>124</sup> CJINI also recommended that plans for properly resourced Independent Domestic Violence Advisor to provide support to victims of domestic violence should be developed by the Department of Justice as a matter of urgency to complement the roll out of the MARAC process.<sup>125</sup> In June 2011 the Justice Minister issued a statement acknowledging that the MARAC process could be enhanced by the appointment of IDVAs and made a commitment to appoint these advisors who will relay information between the victim and various agencies.<sup>126</sup> There has not been an announcement made as yet on these appointments.

In Scotland there is one Special Domestic Violence Court in Glasgow established after a pilot in 2004. The special court has a number of features including: a dedicated court room; the cases are managed by two specialist sheriffs;<sup>127</sup> a dedicated Crown of Procurator Fiscal Service (COPFS) team; and a specialist victim support service ASSIST which provides continuity of support to victims and their children.<sup>128</sup>

A report to the Scottish Government highlighted a number of benefits of the court. These included:<sup>129</sup>

- The court was successful in hearing most cases within target times;
- There were higher rates of guilty pleas in the domestic abuse court than other summary courts in Glasgow (81% compared to 73%);
- There were higher rates of conviction (86% compared to 77%) and a lower rate of attrition (10% compared to 18%). This was explained that the special court has a zero tolerance policy and domestic abuse is taken seriously that there is special court;
- There were high levels of satisfaction among victims whose cases were heard in the pilot court.

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121 Helen Reeves and Peter Dunn “The Status of crime victims and witnesses in the twenty-first century” in A Bottoms and J Roberts (eds) “Hearing the Victim: Adversarial Justice, Crime Victims and the State” 58, Willan Publishing, Devon,

122 Criminal Justice Inspection Northern Ireland “Domestic Violence and Abuse: A Thematic Inspection of the Handling of Domestic Violence Cases by the Criminal Justice System in Northern Ireland” , December 2010, 35, <http://www.cjini.org/CJNI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>

123 A.L Robinson “Independent Domestic Violence Advisors: A Process Evaluation” Final Evaluation Cardiff University 14-15, [http://www.caada.org.uk/research/Robinson\\_IDVAs\\_process\\_evaluation\\_2009.pdf](http://www.caada.org.uk/research/Robinson_IDVAs_process_evaluation_2009.pdf)

124 A.L Robinson “Independent Domestic Violence Advisors: A Process Evaluation” Final Evaluation Cardiff University 33, [http://www.caada.org.uk/research/Robinson\\_IDVAs\\_process\\_evaluation\\_2009.pdf](http://www.caada.org.uk/research/Robinson_IDVAs_process_evaluation_2009.pdf)

125 Criminal Justice Inspection Northern Ireland “Domestic Violence and Abuse: A Thematic Inspection of the Handling of Domestic Violence Cases by the Criminal Justice System in Northern Ireland” , December 2010, 40, <http://www.cjini.org/CJNI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>

126 Department of Justice “Ford Reaffirms Commitment to Tackle Domestic Violence” [http://www.dojni.gov.uk/ford\\_reaffirms\\_commitment\\_to\\_tackling\\_domestic\\_violence](http://www.dojni.gov.uk/ford_reaffirms_commitment_to_tackling_domestic_violence)

127 The main role of sheriffs are to sit as trial judges, see <http://www.scotland-judiciary.org.uk/36/0/Sheriffs>

128 Glasgow Domestic Violence Abuse Court Feasibility Group “Report to the Scottish Government” April 2008, 9-10

129 Glasgow Domestic Violence Abuse Court Feasibility Group “Report to the Scottish Government” April 2008, 12.

CJINI recommended that “the Protection and Justice sub-group of the Tackling Violence at Home Regional Steering group should evaluate the feasibility of developing a specialist domestic violence court for inclusion, if appropriate, in the forthcoming action plan.”<sup>130</sup> This recommendation has been included in the Tackling Violence at Home Action Plan which contains a performance indicator to produce a feasibility study and a decision agreed on Domestic Violence Specialist Courts with a target date of March 2012.<sup>131</sup> The Northern Ireland Courts and Tribunals Service (NICTS) is the lead department on this action.

## 14 Equality and Diversity

Good practice examples have been identified in the treatment of ethnic minority victims in the criminal justice system. CJINI reported that Dungannon District Command Unit (DCU) had developed their own policy in relation to the treatment of vulnerable victims and witnesses such as migrant workers.<sup>132</sup> The Community Safety Sergeant and Minority Liaison Officer has identified its most vulnerable people and tailored services to meet their needs. It was reported that the DCU was using translation services and using language line telephony services as well as developing a working relationship with STEP, a local organisation working with ethnic minorities in the area. The DCU also shares its experiences with other Minority Liaison Officers throughout the service. The DCU along with its other partners provide advice in a surgery the local Citizens’ Advice Bureau for two hours, two days a week.<sup>133</sup>

Research findings from the HM Inspectorate of Court Administration in 2006 identified areas of good practice in recognising diversity of victims and witnesses in oath taking. In Norfolk, the former Magistrates’ Court Committee (MCC) produced a file on oath-taking entitled *Diverse Culture & Religions-Getting it Right, Treating People with Respect*. The guide covered dealing with the needs of people of different religions and none. The guide was supported by customer training and it has been suggested that this has resulted in excellent practice by court ushers in administering oaths and affirmations in the magistrates’ courts.<sup>134</sup>

## 15 Dealing with Child Victims and Witnesses

Good practice has been identified in relation to dealing with children and young witnesses. In Humber, the Young Witness Service has developed a system to indicate when a child or young person needs to take a break when giving evidence by video-link. The volunteer from the Young Witness Service uses a card system to indicate when a child needs a break or is becoming distressed which is recognised by the judge who can take appropriate action.<sup>135</sup> Another example of good practice was identified in the child witness waiting room in Grimsby Crown Court in England. The HM Inspectorate of Court Administration found that the room

130 Criminal Justice Inspection Northern Ireland “Domestic Violence and Abuse: A Thematic Inspection of the Handling of Domestic Violence Cases by the Criminal Justice System in Northern Ireland”, December 2010, 36, <http://www.cjini.org/CJINI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>

131 DOJ and DHSSPSNI “Tackling Violence at Home” Action Plan October 2010 to March 2012, 10. <http://www.dhsspsni.gov.uk/dv-actionplan2010.pdf>

132 Criminal Justice Inspection Northern Ireland “Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System” July 2005,30, <http://www.cjini.org/CJINI/files/ce/ceda45b5-8b15-4f7b-a2a4-9dfe1902eca4.pdf>

133 Criminal Justice Inspection Northern Ireland “Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System” July 2005,30, <http://www.cjini.org/CJINI/files/ce/ceda45b5-8b15-4f7b-a2a4-9dfe1902eca4.pdf>

134 HM Inspectorate of Court Administration “Valuing victims and witnesses: an overview of inspections undertaken during 2005” March 2006, 14.

135 HM Inspectorate of Court Administration “Valuing victims and witnesses: an overview of inspections undertaken during 2005” March 2006, 16.

was suitably decorated and well equipped. The room included a wooden model of the court room and wooden dolls which served to educate young children about the court process.<sup>136</sup>

The National Society for the Prevention of Cruelty to Children (NSPCC) has produced good practice guidance in relation to dealing with young witnesses.<sup>137</sup> The guidance makes suggestions on dealing with young witnesses at the pre-trial stage to the post trial stage. It should be noted that the Department of Justice's (DOJ) Guide Achieving Best Evidence contains a number of good practice recommendations set out in the NSPCC paper. The DOJ guidance contains advice on how to deal with investigative interviews with children and the range of special measures available to vulnerable witnesses including children.<sup>138</sup>

Queens University Belfast and the NSPCC have recently published research for DoJ on the experiences of young witnesses in criminal proceedings. The report identifies a number of problems experienced by young witnesses in criminal proceedings including and makes 11 recommendations which are as follows:<sup>139</sup>

- The timing of referral from the criminal justice system agencies to the Youth Witness Service (YWS) should be kept under review to ensure that vulnerable witnesses are appropriately assessed and supported;
- Future roll out of the YWS to all Courts across Northern Ireland should be based on the identified level of support required by witnesses in the lower Courts and developed accordingly;
- Pre-Trial contact and information sharing between parents and the criminal justice system needs to be improved and awareness needs to be raised about the availability of current resources amongst young witnesses and their families;
- More opportunities need to be created for young witnesses to practice speaking on the TV link prior to giving evidence;
- The findings from this study further support the need to address avoidable delay as a means for improving young witnesses experiences of, and confidence in, the criminal justice system in Northern Ireland;
- The findings of this study suggest that prioritisation of young witness cases is still problematic and consideration should be given to re-issuing recommendations made by the Lord Chief Justice in 2009;
- Routine maintenance of TV link equipment and checks are needed to ensure it is in working order and that the camera does not enable the defendant to be seen;
- Practical arrangements for entering and waiting in court buildings need to be further developed to reduce the stresses placed on young witnesses;
- The proposed introduction of intermediaries will be beneficial to young witnesses and victims and should be brought forward as soon as possible;
- In line with developments in England and Wales, consideration should be given to developing guidance in relation to the questioning and cross examination of young witnesses and victims;

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136 HM Inspectorate of Court Administration "Valuing victims and witnesses: an overview of inspections undertaken during 2005" March 2006, 17.

137 NSPCC (2009) "Good practice guidance in managing young witness cases and questioning children"

138 Department of Justice "Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, the use of special measures and the provision of pre-trial therapy" [http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/achieving\\_best\\_evidence\\_-\\_practitioner\\_guidance\\_\\_may\\_2011\\_-2.pdf](http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/achieving_best_evidence_-_practitioner_guidance__may_2011_-2.pdf)

139 QUB and NSPCC "The Experiences of Young Witnesses in Criminal Proceedings in NI: A report for the Department of Justice" May 2011, 71.

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- Gaps in the availability of therapeutic services in different parts of NI need to be addressed if effective support is to be provided both pre and post-trial.

The recommendations have been accepted by the DoJ who indicate will take these forward in the Victim and Witnesses Action Plan in 2012.<sup>140</sup>

## 16 Conclusion

This briefing paper has identified a number of models of good practice in dealing with victims and witnesses in a range of jurisdictions. These include:

- Models in France and Germany that provide enhanced victims' standing in criminal proceedings;
- Government led initiatives including dedicated policy centres, government led multi agency-partnerships and strategies to deal with victims;
- Non-governmental organisations providing support to victims of crime;
- Police programmes including dedicated units including mental health crisis intervention teams and all female police stations to deal with victims;
- Inter-agency co-operation and the use of protocols between various organisations;
- Possibly extending Special measures in civil proceedings to vulnerable victims as recommended by the NILC;
- Initiatives to reduce waiting times in court listings or the use of mobiles or pagers to enable victims and witnesses to have flexibility to leave the courthouse in England. Initiatives have also been developed in Northern Ireland to deal with the impact of waiting times;
- Measures to deal with victims of domestic violence such as legislation enabling police to issue orders to prevent a suspected perpetrator from entering an address or contacting the victim, special domestic violence courts, independent domestic violence advisors, and in NI, Domestic Abuse Officers, one stop surgeries for victims and multi-agency partnerships such as MARAC;
- Measures to deal with ethnic minority victims such as the development of specific policies by the police in Dungannon including specially trained police officers, translation services and developing partnerships with local organisations; another example is the recognition of diversity in oath taking in England;
- Measures in some courts in England to deal with Child witnesses including good practice guidance specifically for child witnesses and practical initiatives including the use of a card system to giving evidence to indicate when a child witness needs a break and suitably equipped child witness waiting rooms. The NSPCC has produced guidance on dealing with children and young people in the pre-trial to post trial stage and a number of recommendations in the guidance are reflected in the DoJ Achieving Best Evidence Guidance. The NSPCC and QUB reported on the experiences of children and young people in the criminal justice system and the DoJ has accepted the report's recommendations.
- The Department of Justice has committed to developing a model for Witness Care Units in NI. In England and Wales such models have been developed however some of the literature suggests that although there are benefits, there is a gap in provision for victims whose cases do not get to court, where the offender is not detected or where investigations are at early stages. It was suggested that victims could benefit from a

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Letter from the Department of Justice to the Committee Clerk of the Justice Committee on 11 August 2011.



victims champion or advocate to act as a single point of contact which would help ensure their needs are met.



Northern Ireland  
Assembly

Research and Library Service  
Briefing Paper

18 January 2012

**Fiona O'Connell**

Statutory Requirements of  
Criminal Justice Agencies in  
Northern Ireland regarding  
Victims and Witnesses

# 1 Introduction

This paper has been prepared to assist the Justice Committee in its inquiry on victims and witnesses in the criminal justice system. This briefing paper provides information on each of the criminal justice organisations and outlines the statutory requirements on criminal justice agencies in Northern Ireland with regards to victims and witnesses, where appropriate.

The paper also draws on other non- statutory sources which provide information on how victims and witnesses should expect to be treated by criminal justice organisations. In particular, the paper provides information on the Department of Justice Code of Practice for Victims of Crime which sets out the role of statutory criminal justice organisation (and some voluntary organisations) and the standards which victims and witnesses should expect.<sup>1</sup> The Code of Practice is a guide however and does not confer legal rights on victims.<sup>2</sup> The Department of Justice has indicated that it will place the Code of Practice on a statutory footing.<sup>3</sup> The Department plans to place the requirement for a Code in legislation whilst leaving the provisions non statutory. The rationale for this approach is to enable the provisions to be reviewed and updated as the Department seeks to raise the standards and commitments in the initial code without going through the lengthy process of changing legislation.<sup>4</sup>

# 2 Police Service Northern Ireland

Section 32 (1) of the Police (NI) Act 2000 describes the functions of the police in Northern Ireland which are:

- To protect life and property;
- To preserve order;
- To prevent the commission of offences; and
- Where an offender has been committed, to take measures to bring the offender to justice.

This provision also requires the police to carry out their functions in co-operation with, and with the aim of securing the support of the local community.<sup>5</sup> In discharging his/her functions, a police officer is required to uphold the human rights of all individuals, according to the declaration made upon attestation as a constable.<sup>6</sup>

Section 52 of the Police (NI) Act 2000 requires that the Northern Ireland Policing Board will issue a Code of Ethics which will lay down the standards and conduct of police officers and make them aware of their obligations arising from the European Convention on Human Rights under the Human Rights Act 1998. The Code of Ethics requires police officers to treat victims of crime with sensitivity and dignity and to consider any particular needs, vulnerabilities or concerns victims may have. Furthermore the Code of Ethics, subject to the rules regarding confidentiality, requires the police to update victims on the progress of relevant investigations.<sup>7</sup> The police are also required in the provisions of the code to take account of

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1 The paper only focuses however on the requirements of statutory criminal justice organisations as there are a number of voluntary organisations which provide services of victims of crime, particularly Victim Support NI and the NSPCC

2 Department of Justice Northern Ireland "Code of Practice for Victims of Crime" March 2011. 7

3 Committee of Justice Official Report "Department of Justice Briefing to the Justice Committee on planned Justice Legislation" 16/06/11

4 Department of Justice "Summary of Responses to the Public Consultation on Code of Practice for Victims" [http://www.dojni.gov.uk/index/public-consultations/archive-consultations/consultation\\_on\\_a\\_code\\_of\\_practice\\_for\\_victims\\_of\\_crime.htm](http://www.dojni.gov.uk/index/public-consultations/archive-consultations/consultation_on_a_code_of_practice_for_victims_of_crime.htm)

5 Section 32 (5) of the Police (NI) Act 2000

6 Section 38 of the Police (NI) Act 2000

7 PSNI Code of Ethics 2008, Art 2, para 2.3

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the particular needs of witnesses.<sup>8</sup> There are procedures for dealing with breaches of the Code of Ethics. Different procedures exist to deal with alleged misconduct and the origins of the allegation. Minor cases dealt with someone within the Police Service may be dealt with by a supervisor by way of advice or guidance. However cases resulting from a complaint by a member of the public about an officer's conduct, if not already referred to the Police Ombudsman, must be referred immediately to the Police Ombudsman.<sup>9</sup>

The legislation does not make statutory provision for services which the Police Service of Northern Ireland (PSNI) should provide to victims. However the PSNI has published a policy on dealing with victims and witnesses.<sup>10</sup> The policy states that:

2 (1)

- (a) The Police Service of Northern Ireland's (PSNI's) Policy is to deal with all victims and witnesses to criminal offences in accordance with the provisions of the Criminal Evidence (NI) Order 1999 and the Achieving Best Evidence guidance.
- (b) The PSNI will treat victims and witnesses according to their particular needs both as victims and witnesses and as individuals.
- (c) The PSNI will take account of vulnerable victims and witnesses and will consider a range of issues such as their cultural, racial, religious, and sexual identities, and any disability including sensory disability.
- (d) The PSNI will update and liaise with victims of crime by keeping them informed of the progress and status of their particular investigation.
- (e) The PSNI will make appropriate referrals to both voluntary and statutory agencies in an effort to provide enhanced support to victims and witnesses.

The policy acknowledges the importance of the role of the victim in the investigation of a crime and emphasises that victims are more likely to press charges and give evidence in court if they are treated properly by the police.<sup>11</sup> The policy also sets out procedures and guidance on communicating with victims and addressing the needs of specific victims. The policy also sets out commitments on support for victims and the procedures for referral to Victim Support NI. The policy provides that if the investigating officer becomes the subject of the complaint by a victim, they must ensure they inform their supervising officer and ensure someone else assumes the responsibility for updating the victim on their behalf. The policy states that failure to comply with this can render the investigating officer open to disciplinary action.

The PSNI also has published Policing Commitments which set out the standards which the public including victim can expect from the police. Some of the commitments include:

- We will treat you fairly and make sure you can use our services at a time that is reasonably suitable for you. When we speak to you, we will always give you an opportunity to discuss your concerns;
- If you have been a victim of crime, we will update you within 10 days on what we are doing to investigate the crime. If it is appropriate we will give you further updates (and agree with you when these updates will be);
- If you phone 999, we will try to answer your call within 10 seconds. We will let you know when we expect to arrive at the scene of the emergency. We will answer nonemergency calls promptly. If there is not an emergency and we need to come out to you or if you are

8 PSNI Code of Ethics 2008, Art 2, para 2.4

9 PSNI Code of Ethics 2008, pg 28.

10 PSNI Policy Directive on Dealing with Victims and Witnesses PD05/06

11 PSNI Policy Directive on Dealing with Victims and Witnesses PD05/06, para 2 (d)

calling about an agreed community priority in your area, we will aim to be with you within 60 minutes;

- If appropriate, we will make an appointment at a time that suits you to discuss your problem or any other issues that you are concerned about. We will also give you advice on how to prevent the problem from happening again. If we cannot deal with the problem, we will try and put you in touch with someone who can.

The Code of Practice for Victims of Crime, published by the Department of Justice in 2010 provides information services victims should expect from the police. This includes:<sup>12</sup>

- Deal with victims and witnesses in a polite and fair way;
- Provide victims with an information leaflet;
- Pass contact details to Victim Support if the individual agrees;
- Write to victims within five days of reporting the crime to give the contact details of the investigating officer;
- Inform victims when someone has been arrested, been charged and the details of the defendant's first court of appearance;
- If after 3 months, and no-one has been identified for the crime, the police will contact the victim;
- In the case of murder or manslaughter or road death a Family Liaison Officer will be appointed to manage communication between the victim and the police investigation team;
- In the case of victims of child abuse or rape, the case will be investigated by a specialist team;
- Pass information on needs to the Public Prosecution Service in cases of vulnerable or intimidated witnesses to ensure continuation of support;
- Give necessary information to the Compensation Agency and issue certificates as soon as possible if applying for compensation.

The Code also sets out information on the Police Ombudsman in respect of complaints about the services received from the PSNI.<sup>13</sup>

### 3 Public Prosecution Service

The Public Prosecution Service (PPS) in Northern Ireland was established under the Justice (NI) Act 2002 (the 2002 Act). Section 31 of the Act sets out the core function of the PPS as the principal prosecuting authority in criminal proceedings instituted on behalf of the police. The 2002 Act does not specify services that the PPS should provide to victims however there is a requirement for Director of Public Prosecutions to prepare a Code of Practice for Prosecutors.<sup>14</sup> However the Code does not lay down any rule of law.<sup>15</sup> The Code of Practice for Prosecutors contains information on the services to be provided to victims. They include:

- Information provision- delivery of information at key milestones in the progress of a case including prosecutorial decision, notification of major changes to a case, etc;
- Court attendance- arranging and providing information in support of attendance of victims and witnesses at court, for example ensuring witness availability; and

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12 Department of Justice "Code of Practice for Victims of Crime", March 2011,15

13 Department of Justice "Code of Practice for Victims of Crime", March 2011,15

14 S 37 of the Justice (NI) Act 2002

15 Public Prosecution Service " Code of Practice for Prosecutors" Revised 2008,1

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- Support services-providing specialist support services to victims and witnesses as the case progresses through partnerships with Victim Support and the NSPCC, for example to those persons who are vulnerable, intimidated or have particular requirements.

The Code of Practice also contains a Code of Ethics for Prosecutors. The Code of Ethics provides that in order to ensure the fairness and effectiveness of prosecutions, prosecutors shall fulfil their responsibilities to victims and witnesses.<sup>16</sup> The Code of Ethics also states that, in accordance with the requirements of a fair trial, the prosecutor shall consider the views and legitimate interests, privacy and concerns of victims and witnesses when their interests are, or might be, affected and seek to ensure that victims and witnesses are informed of their rights; and similarly seek to ensure that any aggrieved party is informed of the right to recourse to some higher authority or court where that is available.<sup>17</sup> Failure by prosecutors to adhere to the Code of Ethics may result in disciplinary proceedings or in the case of independent counsel instructed by the PPS may result in the PPS not availing of services of that particular counsel in the future.<sup>18</sup>

The Code of Practice draws attention to the possibility of compensation for victims under the Criminal Justice (NI) Order 1994. The prosecutor will have responsibilities under Article 14 (2) of the Criminal Justice (NI) Order 1994 to make representations regarding compensation on behalf of the victim where appropriate.

The Code of Practice for Victims of Crime published by the Department of Justice also sets out services provided by the PPS, reflecting the services set out in the Code of Practice for prosecutors. The Code of Practice explains that the PPS is committed to ensuring victims' interests are taken into account as far as possible although they cannot represent them in the same way in which a solicitor would represent a client. The Code of Practice also specifies that the PPS will provide information to victims on when they have received a file from the police, when they have made a decision whether or not to prosecute and information about going to court to give evidence and the role of the PPS providing a Victim Impact Statement to the court if the victim has prepared one. The Code of Practice provides that, where appropriate, the PPS will apply to court for particular orders such as compensation orders or a sexual offences protection order. The Director of Public Prosecution may also refer unduly lenient sentences to the Court of Appeal. The Code of Practice also provides information on how people can make complaints to the PPS if they are unhappy with the services provided.<sup>19</sup>

## 4 The Northern Ireland Courts and Tribunals Service

The Northern Ireland Courts and Tribunals Service was formerly known as the Northern Ireland Court Service which was established as a unified and distinct civil service under the Judicature (NI) Act 1978. Its main functions were:<sup>20</sup>

- to facilitate the conduct of the business of the Court of Judicature, county courts, magistrates courts and coroners' court;
- to give effect to judgements to which the Judgement of Enforcement (NI) Order 1981 applies;

The Northern Ireland Court Service (Abolition and Transfer of Functions) Order (Northern Ireland) 2010 abolished the Northern Ireland Court Service and transferred its functions to

16 Public Prosecution Service "Code of Practice for Prosecutors" revised 2008, 37

17 Public Prosecution Service "Code of Practice for Prosecutors" revised 2008, 38

18 Public Prosecution Service "Code of Practice for Prosecutors" revised 2008, 38

19 Department of Justice "A Code of Practice for Victims of Crime" March 2011,27-30

20 Judicature (NI) Act 1978



the Department of Justice. The Northern Ireland Courts and Tribunals Service (NICTS) became an executive agency of the Department of Justice.

There is no specified requirement in these pieces of legislation for the NICTS to provide services to victims and witnesses. However the NICTS has a victims and witnesses policy which provides a summary of what victims and witnesses can expect during the court process. These include:<sup>21</sup>

**Before Court**

- The opportunity to visit the court before coming to give evidence;
- Contact information for voluntary agencies and support services;
- Information about the court building and the process.

**At Court**

- Separate waiting rooms on request;
- Information about progress on the day and waiting time;
- Courteous and sensitive treatment by court staff;
- Reduction in unnecessary formality in court;
- Use of interpreters if necessary;
- Explanation of the process;
- Clean and comfortable waiting rooms and refreshment facilities

**Post Court**

- Information about the verdict and sentence, however this may be restricted due to legislative restrictions;
- Use of an interpreter to explain the results after a court hearing;
- Opportunity to provide feedback on the process.

The policy also provides information about how to find the complaints procedure about the NICTS.

The Code of Practice for Victims and Witnesses published by the Department of Justice in 2010 reflects much of the information contained within the NICTS policy on victims and witnesses regarding services. The Code of Practice also provides that it is possible in cases to be heard in the Crown Court that the victim might be able to transfer venue if the original venue is difficult to attend. The Code of Practice also provides guidance on how to make a complaint. If individuals are still not happy, they can complain to a complaints co-ordinator in the Communications Group in the NICTS.<sup>22</sup>

## 5 The Northern Ireland Prison Service

The main statutory duties of the Northern Ireland Prison Service are set out in the Prison Act 1953. This legislation does not specify services for victims however the Prison Service does have a role in relation to victims. The Department of Justice is required to establish a Victim Information Scheme that provides information about the discharge and temporary release

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21 Northern Ireland Court Service "Victims and Witnesses Policy" March 2006, 7-8, [http://www.courtsni.gov.uk/en-GB/Services/Support2VictimandWitnesses/Documents/fe73341cb36a48d18dc1d3a119678428p\\_ucs\\_victimswitnesses.pdf](http://www.courtsni.gov.uk/en-GB/Services/Support2VictimandWitnesses/Documents/fe73341cb36a48d18dc1d3a119678428p_ucs_victimswitnesses.pdf)

22 Department of Justice "Code of Practice for Victims of Crime", March 2011.34

of prisoners.<sup>23</sup> The Northern Ireland Prison Service administers the Prisoner Release Victim Information Scheme (PRVIS). An information booklet has been published by PRVIS, informing victims on how they can be involved in the scheme and the types of information they can receive under the scheme. In order to be eligible, a person must be the actual victim of the offence for which the offender was imprisoned, next of kin or immediate family member or has a close relationship with the person who had died as a result of the crime; or is acting on behalf of a victim who is unable to act on their own behalf.<sup>24</sup> The scheme applies to adult prisoners (over the age of 18 years) sentenced or permanently transferred to serve their sentence in NI. Young offenders are only included in the scheme in certain circumstances. They must have been:

- given the equivalent of a life sentence;
- convicted of a grave offence; or
- sentenced to detention in a young offenders centre in the crown court

The young offender will only become part of the scheme when they reach the age of 18.

The scheme also only applies to prisoners who have been imprisoned to periods of six months or more

A victim can receive information on the prisoner's discharge which includes:

- the month and year in which a prisoner is expected to be discharged;
- any conditions of release to be imposed;
- any breaches of those conditions which result in the prisoner's return to custody;
- in the case of life sentence prisoners:
  - the minimum number of years which the life prisoner must serve;
  - when the life prisoner is being considered for discharge; and
  - the opportunity to contribute to the consideration of the life prisoner for final release.

If a victim wishes to receive information from the scheme, they need to register by contacting the Victims Information Unit.<sup>25</sup> The Code of Practice for Victims published by the Department of Justice reflects much of the information provided in the PRVIS booklet and provides contact details on the Victims Information Unit if there are questions or complaints.<sup>26</sup>

## 6 Probation Board Northern Ireland

The Criminal Justice (NI) Order 2005 requires the Government to make a scheme available for the Probation Board Northern Ireland (PBNI) to make information available to victims who wish to receive it about persons who are subject to supervision orders following conviction.<sup>27</sup> PBNI's scheme became operational in October 2005 and provides the victim with the opportunity to have explained to them the requirements of the sentence imposed on the offender who committed the offence against them.<sup>28</sup> The scheme is available to any person or agreed representative who has been the direct victim of a criminal offence for which the

23 The Justice (NI) Act 2002 as amended by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010

24 <http://www.nidirect.gov.uk/niprvis-information-booklet.pdf>

25 Department of Justice "Code of Practice for Victims of Crime" 2010, March 2011, 37

26 Department of Justice "Code of Practice for Victims of Crime" 2010, March 2011, 39

27 Art 25 of Criminal Justice (NI) Order 2005

28 <http://www.pbni.org.uk/site/Content.aspx?x=U/6/W3TJDxk=&y=o/e2w3LLg4c=>

offender has received a Probation Supervised Sentence.<sup>29</sup> The Criminal Justice (NI) Order 2005 requires that the scheme must make the following information available:<sup>30</sup>

- the requirements or conditions of the relevant order or licence;
- the length of the period of supervision;
- extra conditions or variations to the relevant order or licence;
- further sentences given by the court where there has been a failure to comply with a condition or requirement with the relevant order or licence.

The Probation Board is not required to make information available under the scheme where it believes the information may adversely affect the well-being of the victim or threaten the safety of the victim.<sup>31</sup> The legislation does not specify sanctions in relation to failure to comply with the scheme.

PBNI has published a policy on victims and witnesses. The policy statement states the following:<sup>32</sup>

PBNI recognises the importance of victims in the criminal justice system and the effect that crime can have on victims and those close to them.

- (b) PBNI is committed to playing a key strategic role and linking with the range of bodies, both statutory criminal justice agencies and voluntary organisations, which have a role to play in providing services to victims.
- (c) PBNI will seek to ensure that staff include the victim's perspective in all work with offenders. This will be at the stages of risk assessment; supervision; programmes (including the development of a revised offender/victim awareness programme); victim reports to Parole Commissioners in relation to offenders on sentences of public protection; victim impact reports to courts.
- (d) PBNI staff will have access to appropriate training to enable them to be skilled both in offender/victim awareness work and, where appropriate, in direct contact with victims.
- (e) PBNI will meet the requirements of the Criminal Justice (NI) Order 2005 in relation to the provision of information to victims. PBNI will provide information in relation to offenders subject to Probation supervised sentences. PBNI will also provide information in relation to the concerns of victims/victims' families to Parole Commissioners
- (f) PBNI will ensure that restorative opportunities are available for victims of offenders on probation supervised sentences who consent to such opportunities.
- (g) PBNI will support and facilitate those victims who choose to engage in restorative practices, in order to help redress the harm caused to them by the offender.

The policy states that complaints will be dealt with in accordance with the Probation Board's complaints policy.

The Code of Practice for Victims published by the Department of Justice in 2011 also gives guidance on the services provided by PBNI and the types of information victims

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29 <http://www.pbni.org.uk/site/Content.aspx?x=U/6/W3TJDxk=&y=o/e2w3LLg4c=>

30 Art 25 (3) of the Criminal Justice (NI) Order 2005

31 Art 25(6) of the Criminal Justice (NI) Order 2005

32 PBNI Victims policy issued on 20th May 2011 <http://www.pbni.org.uk/archive/Guide%20to%20Information/Policies%20and%20procedures/Provision%20of%20Services/Victims/Victims%20Policy%201%200%20%282011%29%2023.05.11.pdf>

will receive. The Code also outlines information on how victims can make complaints if they are not satisfied with the services they receive.<sup>33</sup>

## 7 Youth Justice Agency

The aim of the Youth Justice Agency is to reduce youth crime and build confidence in the youth justice system.<sup>34</sup> The Justice (NI) Act 2002 gives the Youth Justice Agency statutory authority to include victims in the youth justice process in a number of ways.<sup>35</sup> Article 3A of the Criminal Justice (Children) (Northern Ireland) Order 1998 (as amended by Section 57 of the Justice (NI) Act 2002) provides that the victim of an offence or an individual representing the victim is entitled to participate in any meeting constituting any part of a youth conference. Art 3C provides that a child may be required to apologise or make reparation to a victim of the offence or another person affected by it as part of a youth conference plan. The legislation does not specify other services that are provided to victims and witnesses. However the Youth Justice Agency has published a Victims' Charter in 06/07. The Charter contains information on services provided by the Youth justice Agency, which provides information and updates in the following ways:<sup>36</sup>

- Victims who have been contacted by a Youth Conference Co-ordinator to participate in a youth conference referred by the Court or Public Prosecution Service will be informed of the outcome decision of the Public Prosecution Service or the Court.
- Victims who have been contacted to participate in a youth conference will be informed of the outcome when the conference has been completed satisfactorily or has been breached.
- Victims who did not consent to participate will be informed when a plan is completed satisfactorily or breached and the outcome, if requested.
- Victims who have participated in a Reparation Order will be informed of satisfactory completion or breach and outcome.
- Victims contacted in relation to a programme of the Juvenile Justice Centre will be informed of completion of the programme.
- The Youth Justice Agency will produce information leaflets for victims on any specific services which it provides.

The Charter also gives guidance to services available to vulnerable victims. Where victims are under 18 or have a mental or physical impairment, the Agency will identify a responsible adult or suitable support person. Victims who do not have English as a first language will be offered the support of translator services. Victims who have suffered hate crime will be offered support from an appropriate support person with a background of common interest acceptable to the victim. The agency will also make referrals to specialist support agencies where appropriate.<sup>37</sup> The Charter also sets out a 4 step complaints procedure.<sup>38</sup> The procedure allows for complaints to be dealt with internally within the Youth Justice Agency,

33 Department of Justice "Code of Practice for Victims of Crime", 44

34 [http://www.youthjusticeagency.ni.gov.uk/about\\_us/](http://www.youthjusticeagency.ni.gov.uk/about_us/)

35 Youth Justice Agency "Victims Charter" 2006-07, 3 [http://www.youthjusticeagency.ni.gov.uk/document\\_uploads/YJA\\_Victims\\_Charter.pdf](http://www.youthjusticeagency.ni.gov.uk/document_uploads/YJA_Victims_Charter.pdf) ,

36 Youth Justice Agency "Victims Charter" 2006-07, 6 [http://www.youthjusticeagency.ni.gov.uk/document\\_uploads/YJA\\_Victims\\_Charter.pdf](http://www.youthjusticeagency.ni.gov.uk/document_uploads/YJA_Victims_Charter.pdf)

37 Youth Justice Agency "Victims Charter" 2006-07, 6-7 [http://www.youthjusticeagency.ni.gov.uk/document\\_uploads/YJA\\_Victims\\_Charter.pdf](http://www.youthjusticeagency.ni.gov.uk/document_uploads/YJA_Victims_Charter.pdf)

38 Youth Justice Agency "Victims Charter" 2006-07, 9-10 [http://www.youthjusticeagency.ni.gov.uk/document\\_uploads/YJA\\_Victims\\_Charter.pdf](http://www.youthjusticeagency.ni.gov.uk/document_uploads/YJA_Victims_Charter.pdf)

however if dissatisfied with the outcome, the victim may write to the Independent Complaints Reviewer in London.

The Code of Practice for Victims of Crime published by the Department of Justice in 2010 provides guidance on the services provided by the Youth Justice Agency.

**If there is to be a youth conference:<sup>39</sup>**

- The victim will be invited to attend or to take part by video link, by phone or from behind a two-way mirror;
- The victim can be supported by a family member, a volunteer from Victim Support Northern Ireland, or someone else you choose to bring with you for support; and
- the youth conference will be arranged at a time and place that suits the victim. The conference will be led by a youth conference co-ordinator who will arrange to meet with you before the conference to help you prepare for it. The wellbeing of the victim is the priority at the youth conference.

**At the conference the victim:**

- can tell the offender and their family how the crime has affected them;
- will be given the opportunity to assess whether they think the young offender regrets what they did; and
- ask for the young offender to apologise, pay compensation or take action to make amends for the crime, or for there to be restrictions on their behaviour or movements.

The victim will be told when the young person successfully completes the Youth Conference Order, or if they have not kept to it.

The Code of Practice also gives details on where victims can get information on the Youth Justice Agency's Complaints Charter.<sup>40</sup>

## 8 Conclusion

This paper described the role of each of the criminal justice agencies in Northern Ireland in providing services to victims. The paper provided information on legislative and non-legislative sources which set out the services that the agencies provide.

The PSNI has a statutory requirement for constable to make a declaration to, among other matters, uphold human rights and there is a requirement for the Policing Board to issue a Code of Ethics for police officers. The Code of Ethics requires police officers to treat victims with sensitivity and dignity and update victims on the progress of their case. There are sanctions outlined in the Code of Ethics for breaches of the Code. The PSNI has also published a policy on Dealing with Victims and Witnesses. However there are no statutory requirements for the police to provide specific services for victims.

There are no statutory requirements for the PPS to provide services to victims and witnesses of crime. However there is a requirement for the Director of Prosecutions to issue a Code of Practice for Prosecutors. This code specifies the type of information to be provided to victims and witnesses. The Code also contains a Code of Ethics which requires prosecutors to fulfill their responsibilities to victims and witnesses, consider their views and ensure they are informed of their rights. However this code is not intended to be legally binding. Prosecutors

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39 The Department of Justice "Code of Practice for Victims of Crime" 47-48

40 The Department of Justice "Code of Practice for Victims of Crime" 49

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have a role in making representations to the court regarding compensation orders where appropriate.

There is no statutory requirement for the NICTS to provide services to victims and witnesses, however the court service has produced a policy outlining the services victims and witnesses can expect to receive.

The Department of Justice has a statutory requirement to make a Prisoner Release Victim Information Scheme (PRVIS). This scheme is administered by the Northern Ireland Prison Service and an information booklet for victims has been published to inform victims as to how they can be involved in the scheme and the type of information that they can receive.

The Criminal Justice (NI) Order 2005 requires the Government to make a scheme enabling the Probation Board Northern Ireland (PBNI) to make information available to victims who wish to receive it about persons who are subject to supervision orders following conviction. The legislation also specifies the type of information victims can receive and the circumstances in which the Probation Board is not required to make information available. The Probation Board has also issued a policy on victims and witnesses which outlines how it will work to meet the needs of victims.

The Youth Justice Agency has statutory authority to involve victims and witnesses in the youth conference process. The Youth Justice Agency published a Victims Charter in 2006-07 which sets out commitments from the Youth Justice Agency to victims including information on the range of services available.

The Department of Justice published a Code of Practice for Victims of Crime in 2010 which provides information on the services victims can expect to receive from criminal justice organisations and some voluntary organisations such as Victim Support NI and the NSPCC. The Code of Practice is not on a statutory footing as yet, however the Department has indicated it planned to place the requirement for a Code of Practice for Victims in legislation but the provisions of the code will remain non statutory.





Northern Ireland  
Assembly

Research and Library Service  
Briefing Paper

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25 January 2012

**Fiona O'Connell**

Supplementary Briefing Paper  
on Victims and Witnesses

# 1 Introduction

In order to assist the inquiry on victims and witnesses, the Justice Committee identified the need for a briefing paper on three additional areas following a presentation on two research papers: *The Status of Victims and Witnesses in the Criminal Justice System*; and *Victims and Witnesses: Good Practice Models*. The three areas for additional information included:

- Identified obstacles on getting cases to court or the trial starting;
- Updated information on a police local community pilot scheme for domestic violence victims;
- The scope of Witnesses Care Units and the parts of the process not covered by them, if any.

## 2 Obstacles on getting cases to court

This section first sets out some general issues identified by the Criminal Justice Inspection Northern Ireland (CJINI) on the problem of delay. Subsequently this section examines specific issues discussed by CJINI: timely and quality file preparation by the police, statute barred cases, summons process, adjournments, case management/case progression, and sentencing reports.

### **The Problem of Delay**

The Criminal Justice Inspection Northern Ireland (CJINI) published a report on *Avoidable Delay* in June 2010. There are a number of factors which contribute to the length of time cases spend in court including: the readiness of the prosecution team or defence to proceed with the case and the timing of a plea by the defendant which can contribute to high numbers of adjournments and lengths of court lists.<sup>1</sup> The inspection report highlighted the negative impact of avoidable delay on victims and witnesses which can be severe and ‘can undermine the quality of justice.’<sup>2</sup> During the course of the inspection, inspectors met with Victim Support Northern Ireland and spoke to a victim and representative of a victim. According to the report, victims experienced deep frustration at the number of adjournments due to non-attendance of the defendant and the prosecutor not being ready to present evidence at a contested hearing.<sup>3</sup> Unnecessary attendances by victims and witnesses led to increased stress for the victims, additional costs of travel, taking time off work and waiting around at court.<sup>4</sup> In a report in 2011 on victims and witnesses, CJINI repeated that the recommendations made in the ‘*Avoidable Delay*’ report were vital to improving the experiences of victims and witnesses in the criminal justice system.<sup>5</sup>

Of particular concern to CJINI was the length of time it took to process cases in relation to youth defendants as it took on average 148 days to process a charge case (25 days longer than adults cases) and 283 days to process a summons case in 2009-10 (57 days longer than adult summons cases).<sup>6</sup> The report indicated that the length of time it takes to process a case through to disposal by a court is too long, significantly longer than in England and Wales.<sup>7</sup> A range of factors have been identified as to why youth cases take longer to

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1 Criminal Justice Inspection Northern Ireland “*Avoidable Delay*”, June 2010, v viii. Available at <http://www.cjini.org/CJINI/files/c0/c0243f51-1e73-47e8-a6fa-344d5f0063c5.PDF>

2 Criminal Justice Inspection Northern Ireland “*Avoidable Delay*”, June 2010, 64

3 Criminal Justice Inspection Northern Ireland “*Avoidable Delay*”, June 2010, 65

4 Criminal Justice Inspection Northern Ireland “*Avoidable Delay*”, June 2010, 65

5 Criminal Justice Inspection Northern Ireland “*The Care and Treatment of Victims and Witnesses in the Criminal Justice System*” December 2011, para 4,37

6 Criminal Justice Inspection Northern Ireland “*Avoidable Delay*”, June 2010, v, 1, 10-11

7 Criminal Justice Inspection Northern Ireland “*Avoidable Delay*”, June 2010, v, 1.

progress. CJINI inspectors were told by some district judges that they were more inclined to grant adjournments to give youths 'a better chance'.<sup>8</sup> Courts were also more likely to request full pre-sentence reports.<sup>9</sup> Another factor is that a third of youth cases were notified as contested but then changed to a plea or the PPS withdrew the case.<sup>10</sup> CJINI reported that interviewees raised the issue of combining youth and adult cases together as contributing to avoidable delay as it is the norm that the youth or adult case will follow the longest running case.<sup>11</sup>

CJINI published a follow up report on its thematic inspection on Avoidable Delay in January 2012, which highlighted that progress was slow in a number of areas. CJINI reported that there has been recent deterioration for Crown Court cases and a significant deterioration in end to end times for adult and youth Magistrates' Court summons cases. The exception to this is in charge cases which have continued to improve over the last four years.<sup>12</sup> Crown Court cases continue to take more than 400 days on average from charge to disposal.<sup>13</sup> CJINI recommended that statutory time limits should be introduced on a phased basis, starting with the implementation of youth court cases within the next two years. CJINI indicated that the details of how statutory time limits operate is ultimately for the Department of Justice to determine but CJINI recommends that the work should draw on experiences from other jurisdictions such as Scotland and England. CJINI also referred to recommendations made by the Review of the Youth Justice System in NI that there should be a time limit in youth cases of 120 days from the time of arrest to disposal; the Independent Prison Review Team made a similar recommendation as to the starting point.<sup>14</sup>

#### **Timely and quality file preparation by the police**

One of the main issues highlighted by CJINI in 2010 was the preparation of timely and quality files by the police "which links the two fundamental roles of a criminal justice system: investigation and prosecution."<sup>15</sup> The Inspection Team reported that the PSNI were having difficulties in achieving timeliness targets set by the policing board. This can impact on cases getting to court as the police may need to request an extension to the six month statutory time limit for certain summary offences.<sup>16</sup> In relation to file quality, CJINI indicated that that this is one of the main challenges for the PSNI "with major implications for other criminal justice organisations".<sup>17</sup> Some of the factors impacting on file quality include the experience of individual police officers and supervisors, workload, competing demands of police officers, the nature of offences and the experience and working practices of particular prosecutors.<sup>18</sup> CJINI reported that data published by the PPS showed that the need for further statements or evidence constituted the largest proportion of "Requests for Further Information" (43%). This was followed by further enquiries/investigation (30%), interviews summaries/transcripts (15%) and medical/forensic reports (8%)<sup>19</sup> According to CJINI, the average time for police to respond to each request for information file is 50 days and sometimes more than one

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8 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,49  
 9 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,49  
 10 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,49  
 11 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,49  
 12 Criminal Justice Inspection Northern Ireland 'Avoidable Delay: A Progress Report' January 2012, vi  
 13 Criminal Justice Inspection Northern Ireland 'Avoidable Delay: A Progress Report' January 2012, vi  
 14 Criminal Justice Inspection Northern Ireland "Avoidable Delay: A Progress Report" January 2012, 17  
 15 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,33.  
 16 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010, 34.  
 17 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010, 37.  
 18 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,36.  
 19 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,36,

request is required.<sup>20</sup> CJINI made a number of recommendations to improve file quality including:<sup>21</sup>

- Ensuring quality assurance checks are clearly understood and implemented at agreed points;
- Adequate resourcing of quality assurance checks;
- Improved linkages between police districts and training departments in the PSNI;
- Greater integration in IT training in the NICHE case management system;
- Engagement between the PSNI and PPS on training needs and provision; and
- Greater appreciation of performance with regards to file quality in the internal PSNI rewards and sanctions systems.

CJINI acknowledged that since the last inspection, the PSNI has undertaken a two-fold approach to improve file quality and overall timeliness: freeing up resources devoted to file preparation (shorter files and more use of police discretion as a disposal); and streamlining and improving existing resources. However findings in the 2012 progress report indicated that the evidence to date on file quality is mixed as the PPS reported that the number of Requests for Further Information has remained high, particularly in complex indictable cases.<sup>22</sup>

### **Statute Barred Cases**

CJINI reported in “Avoidable Delay” that managing the work queue is a major challenge for the PPS and the impact of delay at this stage is that cases will take longer to get to court.<sup>23</sup> When files are sent to the PPS, they are registered and allocated to prosecutors for a decision on prosecution. Indictable case files are allocated manually by regional directors.<sup>24</sup> All other files are in the unallocated summary case queue.<sup>25</sup> Sometimes due to workload, backlogs will develop and cases can be left unallocated for months.<sup>26</sup> Over the past year the non-allocated work queue has increased with the biggest increase in the Belfast and Lisburn regions.<sup>27</sup> A file review conducted by CJINI found that one file had rested in a queue for 15.5 weeks – the average was 7.5 weeks. Another file had reached the stage of becoming statute barred by the time it was allocated.<sup>28</sup> This issue was again highlighted in the recent report in December 2011 by CJINI on victims and witnesses when inspectors heard concerns from a woman whose son was the victim of an assault. The women had been informed by the PPS the case could not be proceeded with as the case had become statute barred which meant that it was outside the statutory time limit for prosecution.<sup>29</sup>

In the 2012 progress report, Inspectors raised concerns about the number of cases which have become statute barred and cannot be prosecuted by the PPS. CJINI indicated that this is both a symptom of delay and ineffective case management in the PSNI. The Inspectors reported that 40 cases per month became statute barred in the first half of 2011, similar to the position in the 2010 inspection. An internal push by the PSNI reduced this to an average

20 Criminal Justice Inspection Northern Ireland “Avoidable Delay”, June 2010,36

21 Criminal Justice Inspection Northern Ireland “Avoidable Delay”, June 2010,37-38

22 Criminal Justice Inspection Northern Ireland “Avoidable Delay: A Progress Report” January 2012, 11

23 Criminal Justice Inspection Northern Ireland “Avoidable Delay”, June 2010,39

24 Indictable offences more serious offences which are tried at the Crown Court whereas summary cases are tried summarily in the Magistrates’ Court and there is no jury trial, see B Dickson (2011) Law in Northern Ireland: An Introduction” SLS Publications, para 8.2

25 Criminal Justice Inspection Northern Ireland “Avoidable Delay”, June 2010,39

26 Criminal Justice Inspection Northern Ireland “Avoidable Delay”, June 2010,39

27 Criminal Justice Inspection Northern Ireland “Avoidable Delay”, June 2010,39

28 Criminal Justice Inspection Northern Ireland “Avoidable Delay”, June 2010,39

29 Criminal Justice Inspection Northern Ireland “The Care and Treatment of Victims and Witnesses in the Criminal Justice System”, December 2011, para 4.29

of 13 during the summer months of 2011. CJINI emphasised that this would require ongoing monitoring by the PSNI and the PPS.<sup>30</sup>

### Summons Process

CJINI suggests in its reports that the summons process is an area where avoidable delay could be reduced. A summons case takes longer than a charge case as a summons is required to be issued by the PPS, signed by a lay magistrate and served directly by the PSNI or increasingly by post.<sup>31</sup> One recommendation is that this could be achieved through a provision to allow the PPS to commence proceedings without having to seek permission from a lay magistrate.<sup>32</sup>

In the progress report in 2012, CJINI indicated that it was concerned about the summons stage (from when the PPS issue a decision on prosecution to when a defendant appears in court) as performance has significantly deteriorated in 2010-11 and the first half of 2011-12. On average this stage has lasted 151 days for adults (22 weeks) and 140 days for youth defendants (20 weeks). CJINI emphasised that this was an average as some cases were taking much longer; the justice agencies have a target of four to six weeks for the service of summonses.<sup>33</sup> CJINI suggests that the spike in delay relates to the 20% of postal summonses which are not served first time, leading to multiple attempts at personal service by the PSNI and long delays prior to court.<sup>34</sup> CJINI acknowledged that the summons approach to court attendance will continue for specific types of cases such as road traffic offences which will in the main continue to be served by post. CJINI suggest some possibilities for the issue of personal service:<sup>35</sup>

- outsourcing , which would be the preference of the PNI but will require new legislation;
- the service on accused solicitor; or
- the service on an accused at the time of police bail.

### Adjournments

CJINI referred to its previous inspection in 2006 which found that adjournments were a large contributing factor in the overall end to end case time.<sup>36</sup> CJINI highlighted that subsequent data provided by the NICTS indicated that in 2008, there were almost 140,000 adjournment orders for defendants in criminal courts in NI. CJINI noted that these equated to an average of 6.44 per defendant in the Crown Court, 2.22 per defendant in the magistrates' court and 4.7 per youth defendant in the magistrates' court. The equivalent figures for England and Wales were 1.36 in the magistrate court and 1.35 in the youth court.<sup>37</sup>

A number of factors have been identified in contributing to adjournments such as prosecution or the defence were not ready to proceed; new evidence introduced or the need to produce documentation such as driving licences.<sup>38</sup> However CJINI acknowledged a distinction between productive adjournments (such as those need to gain necessary information such as pre sentence reports) and adjournments which could have been avoided with better planning (such as a defendant or a witnesses not turning up). Evidence gathered by CJINI in relation to adjournments identified a number of key issues. One of the most common is a prosecutor

30 Criminal Justice Inspection Northern Ireland "Avoidable Delay: A Progress Report" January 2012, 12

31 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010, 92

32

33 Criminal Justice Inspection Northern Ireland "Avoidable Delay: A Progress Report" January 2012, 8-10

34 Criminal Justice Inspection Northern Ireland "Avoidable Delay: A Progress Report" January 2012, vi

35 Criminal Justice Inspection Northern Ireland "Avoidable Delay: A Progress Report" January 2012, 16

36 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,50

37 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,51

38 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,51

waiting on part of or a full file.<sup>39</sup> Another issue often mentioned is the need to obtain external information such as forensic science or a medical report, however CJINI indicated the data suggests it is less frequent.<sup>40</sup> A frequently identified cause of adjournments is witness availability and lack of attendance in court. Some problems include civilian witnesses not invited and police not made available due to diversion to operational issues, leave or sickness. The PSNI informed CJINI inspectors that the PPS failed to understand police officers availability and take account of rotas including night duty arrangements.<sup>41</sup> Case progression officers in Belfast reported to CJINI that witness problems were the main cause of adjournments, as the PPS do not have the resources to follow up on witness problems.<sup>42</sup>

An adjournment pilot project has been established in Londonderry/Derry Magistrates court which classifies each adjournment according to a code. Data from the pilot in 2010 indicated that 61% of case progression adjournments were attributable to the prosecution. In the youth court 56% of case progression adjournments were attributable to the defence and 40% to the prosecution.<sup>43</sup> The vast majority of case progression adjournments are due to one or more parties not being ready to proceed with the case.

The issue of adjournments was raised again by CJINI in its progress report in 2012 which indicated that the reasons for adjournment are caused by a general lack of preparedness for court by both the prosecution and the defence.<sup>44</sup>

An issue not specifically dealt with by CJINI in its report in avoidable delay emerged in the aftermath of a high profile murder case in Northern Ireland in late 2011. It was reported that a defendant in a high profile murder case changed her legal team on no less than four occasions resulting in the delay of the case which took two years and 10 months to process.<sup>45</sup>

### **Case Management/ Case Progression**

CJINI suggest in its report on avoidable delay that case management/progression is another area where avoidable delay could be reduced. CJINI highlights that case management/progression covers all stages of a case from investigation through to a disposal in court. CJINI report that inadequate inter-agency case progression remains a root cause of avoidable delay at all stages of cases but particularly at the court stage where a number of justice organisations are involved.<sup>46</sup> A pilot on case progression was established in Belfast Laganside Courts in 2007-2008 in youth cases. However it was decided that whilst there was improvement in case processing times that it could not be attributed to the Case Progression Group and therefore a decision was taken not to expand the initiative.<sup>47</sup> CJINI were informed during the inspection that a new initiative was presented to the Criminal Justice Board, a modified version of the case progression meeting format. CJINI emphasised the initiative needed to be supported by defined terms of reference, appropriate operational members from the justice organisations and a common data set of live information.<sup>48</sup> CJINI highlighted that appropriate staff in the relevant organisations to take responsibility for case progression was an essential element of case progression. CJINI acknowledged that a previous recommendation for the Northern Ireland Courts and Tribunals Service (NICTS) to appoint

39 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,53

40 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,53

41 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,53

42 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,53

43 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,54

44 Criminal Justice Inspection Northern Ireland "Avoidable Delay: A Progress Report" January 2012,13

45 See the Irish News "20 Year Jail Term for 'truly heinous' murder welcomed" October 29 2011 and Belfast Telegraph "A Defendant should pay for new legal team" November 2011

46 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,54

47 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,57

48 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,57



Case Progression Officers was implemented, however there was a lack of a collaborative approach and there were no equivalent staff in the PSNI and PPS. CJINI recommended that the establishment of case progression personnel in the three main criminal justice agencies should be expedited.<sup>49</sup> In its most recent report on victims and witnesses, CJINI heard issues of concern regarding the agreeing of witnesses with the defence.<sup>50</sup> Inspectors noted that the Lord Chief Justice has issued a practice direction which touches on this issue. The purpose of the practice direction is to improve witness availability to ensure that avoidable adjournments can be prevented in the Crown Court.<sup>51</sup> CJINI also described arrangements in England and Wales under the Criminal Procedure Rules 2010 to ensure witnesses can be agreed at an early stage and contain sanctions for non-compliance.<sup>52</sup> CJINI recommended that case management is put on a statutory footing with timescales, incentives and sanctions to ensure effective case progression.<sup>53</sup>

In the progress report in 2012, CJINI reported evidence of increasing collaboration between case progression staff in relation to Crown Court cases and contested cases in the Magistrate's Courts and that there is scope to better utilise this expertise now that more live time case information is becoming available via the Causeway data sharing mechanism and each justice agency's own case management systems.<sup>54</sup>

### Sentencing Reports

Whilst the remit of the paper was to outline the obstacles on cases getting to court or delaying trials, it might be interesting to note that CJINI identified delays at the stage after a verdict is reached and prior to sentencing. After a finding of guilt and prior to sentence, this stage is devoted to gathering information to inform the sentencing of defendant. Most cases are adjourned for the preparation of a Pre-Sentence Report (PSR) and sometimes this is replaced by a Specific Sentence Report (SSR) which is generally prepared more quickly by the Probation Board Northern Ireland (PBNI). PBNI is usually given 14 days to prepare a report, however this is reportedly higher in areas such as Derry/Londonderry where the figure is 21 days as PBNI have asked additional time to prepare cases. These reports require a court adjournment of three weeks.<sup>55</sup> CJINI highlighted that in 2009, a PBNI audit showed that 25% of PSRs could have been done by SSRs and a later audit in 2010 suggested that 15% of PSRs could have been processed as an SSR.<sup>56</sup> It has been noted that specific reports are used more in Belfast than in rural areas but this could be explained by a number of reasons: a pilot was launched in Laganside Court and PBNI has an office in these courts with access to the case management system.<sup>57</sup> CJINI recommended that PBNI should work closely with sentencers to increase the proportion of Specific Sentence Reports in accordance with the PBNI audit. An audit of Pre-Sentence reports in 2011 suggests that the uptake of SSRs is low, in 2010 PBNI prepared almost 6000 PSRs but only 325 SSRs.<sup>58</sup> CJINI recommended that that PBNI need to look at the reasons for low uptake of SSRs and if necessary to develop reports that are less resource intensive to meet the requirements of sentencers.

49 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,57-58

50 Criminal Justice Inspection Northern Ireland "The Care and Treatment of Victims and Witnesses in the Criminal Justice System" December 2011, 4.38

51 CJINI notes that this practice direction is operating in pilot form in Antrim and Belfast Crown Courts since September 2011. See Criminal Justice Inspection Northern Ireland "Avoidable Delay: A Progress Report" January 2011, 13

52 Criminal Justice Inspection Northern Ireland "The Care and Treatment of Victims and Witnesses in the Criminal Justice System" December 2011, 4.40

53 Criminal Justice Inspection Northern Ireland "The Care and Treatment of Victims and Witnesses in the Criminal Justice System" December 2011, 4.41

54 Criminal Justice Inspection Northern Ireland "Avoidable Delay: A Progress Report" January 2012, 13

55 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,58

56 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,58

57 Criminal Justice Inspection Northern Ireland "Avoidable Delay", June 2010,59

58 Criminal Justice Inspection Northern Ireland "Pre Sentence Reports" June 2011, para 3.19

CJINI also recommended that PBNI should increase the usage of SSRs and set a target of 35% per annum.<sup>59</sup>

### 3 Police Domestic Violence Pilot Schemes

After a presentation on the two previous papers provided to the Justice Committee on 8th December 2011, a member referred to a pilot in the context of domestic violence. The pilot scheme highlighted involved a designated police officer who came into a community setting in plain clothes where women felt more comfortable reporting the offence. The member highlighted that the pilot appeared to be successful as more women came forward to report the offence. The member asked whether there was any information on whether the pilot had been rolled out.<sup>60</sup> The PSNI were contacted to obtain information and according to information received, there are various 'One Stop Shops' in Northern Ireland which involves a venue for victims of domestic abuse to drop in and seek advice and information from various professionals from Women's Aid, police, solicitor, and social security agencies. However services may vary across the different 'One Stop Shops'. These venues enable victims of domestic violence to call in and discuss their situation rather than physically attending a police station or have a police officer call out to their home.<sup>61</sup>

There have been other pilots involving the police in dealing with domestic violence incidents. One pilot involved the use of Body Worn Digital Recording Systems or head cameras, which was piloted in Carrickfergus between March and August 2008. During the pilot, the cameras were booked out 424 times and 53 recordings were made. An evaluation of the report indicated that the pilot offered good evidence in domestic violence incidents and CJINI reported that offences fell by 4% compared with the same six month period in 2007.<sup>62</sup> Some anecdotal evidence provided examples that head camera evidence resulted in early guilty pleas on a case by case basis or directly contributed to the prevention of crime. CJINI highlighted that the pilot was subsequently rolled out to Lisburn and preparations were underway to roll out the scheme in Newtownabbey and Antrim. CJINI recommended that in consultation with the PPS, the PSNI should explore the feasibility of further roll out of the Body Worn Digital Recording Systems to other police districts in Northern Ireland.<sup>63</sup> PSNI were contacted to get further information on the stage of this pilot and whether it has been further rolled out. The response stated

*"District personnel in various areas do continue to use the head cameras. Development of this has been limited on a national level as the National Police Improvement Agency had until recently been drafting a national procurement framework for 'body worn' digital recording systems whilst producing revised guidance for police services throughout the UK in relation to the use of this equipment. However, due to a Home Office consultation on the Government's 'Protection of Freedoms' Bill (which includes provisions relating to 'surveillance cameras' - which includes the use of head cameras), progress has been halted pending the outcome of this consultation. In light of the commitments both financially with the equipment (as well as back office equipment) and the resources, it was felt that the PSNI would wait until a definitive national position emerges reflecting NPIA advice."<sup>64</sup>*

59 Criminal Justice Inspection Northern Ireland "Pre Sentence Reports", June 2011 para 3.30 and 3.31

60 Question asked by Jennifer McCann MLA in the Justice Committee meeting 8 December 2011

61 Information obtained via email from PSNI, 25/01/12

62 CJINI "Domestic Violence and Abuse: A Thematic Inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland", 13

63 CJINI, Domestic Violence and Abuse: A Thematic Inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland", 13

64 Information obtained from PSNI via email, 25/01/12

The PSNI have also been involved in two pilots with Women's Aid support workers in two Belfast police districts.<sup>65</sup> The project involved the co-location of a Women's Aid support worker within the domestic abuse team. The role of the Women's Aid support worker was to support victims through the criminal justice system, offering support and explanations about the process. The project was deemed to be successful as it encouraged victims who might have not done so otherwise to support the investigation and prosecution process. CJINI recommended that the PSNI in conjunction with Women's Aid should explore the possibility of further co-location of support workers with the Public Protection Units in the police.<sup>66</sup> A submission from Women's Aid Federation to the Justice Committee into the inquiry on victims and witnesses indicates that Women's Aid Workers have been embedded in five Public Protection Units which has proven to be beneficial.<sup>67</sup>

## 4 Witness Care Units

There are 165 Witness Care Units (WCUs) in England and Wales. The WCUs provide a single point of contact for victims and witnesses and are jointly staffed by the police and the Crown Prosecution Service. Their aim is to minimise the stress of attending court and to keep victims and witnesses up to date on their case. The WCUs manage the care of victims and witnesses from the point a defendant is charged through to the conclusion of a case. When a person is charged with a crime, the police will pass the witnesses' file to the local WCU.<sup>68</sup> The Witness Care Unit will allocate a dedicated Witness Care Officer to act as a single point of contact to keep the victim or witness informed of the cases progress from the point of charging the suspect to sentencing or acquitting the defendant.<sup>69</sup>

The services provided by WCUs include:<sup>70</sup>

- A single point of contact for victims and witnesses, communicating by their preferred means;
- A full needs assessment for victims and witnesses where a defendant pleads not guilty identifying needs such as transport, childcare, language difficulties and medical issues and highlight possible areas of concern such as intimidation;
- Dedicated case officers to guide and support individuals and co-ordinate services;
- Continuous review of victims and witnesses needs throughout a case;
- Communication with witnesses including outcome of a case including thanking them for their contribution and offering post case support from relevant support agency'

WCUs have certain legal obligations set out in the Code of Practice for victims of crime which came into force in April 2006. These obligations include:

- Inform victims and witnesses if they will be required to give evidence;
- Inform victims of court hearing dates;
- Give a copy of "Witness in Court" leaflet or other information if required to give evidence;

65 According to the Northern Ireland Policing Board, A District was involved in the pilot, which placed a Women's Aid Support Worker in Antrim Road Police Station. See the Northern Ireland Policing Board "Thematic Inquiry on Domestic Abuse: Human Rights and Professional Standards Committee", 13.

66 CJINI, Domestic Violence and Abuse: A Thematic Inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland", 21

67 Women's Aid Federation Northern Ireland "Written Submission to the Committee for Justice: Inquiry into the Criminal Justice Services Available to Victims and Witnesses of Crime in Northern Ireland" December 2011, 7.

68 <http://www.victimsupport.org/Help-for-witnesses/A-guide-to-the-courts/What-to-expect-if-called-as-a-witness>

69 [http://www.cps.gov.uk/victims\\_witnesses/reporting\\_a\\_crime/keeping\\_you\\_informed.html](http://www.cps.gov.uk/victims_witnesses/reporting_a_crime/keeping_you_informed.html)

70 [http://www.cps.gov.uk/news/fact\\_sheets/witness\\_care\\_units/](http://www.cps.gov.uk/news/fact_sheets/witness_care_units/)

- Tell victims and witnesses of outcome and explain any sentence within one day of receiving the outcome from court.

Academic literature highlighted that the units were set up to deal with victims and witnesses after the offender has been charged, however there are no provisions in place for the much larger number of victims whose offenders have not yet been detected, or for any victim or witness during the early stages of the investigation, although they too could benefit from better information and a single point of contact.<sup>71</sup>

## 5 Conclusion

This paper provides further information on areas identified by the Justice Committee to assist the Members in its inquiry on victims and witnesses. These areas included the following:

- Obstacles to cases going to court/the trial starting;
- Additional information on a police domestic violence pilot;
- Further information on Witness Care Unit and parts of the process not covered.

### **Obstacles to cases going to court/delaying start of trial**

CJINI has published a number of reports on Avoidable Delay which highlight issues on case progression through the criminal justice system. In its most recent report in 2012, CJINI reported that there has been recent deterioration for Crown Court cases and a significant deterioration in end to end times for adult and youth Magistrates' Court summons cases. Crown Court cases continue to take more than 400 days on average from charge to disposal. CJINI recommended the introduction of statutory time limits, starting with implementation in youth defendant cases.

Other issues highlighted in the CJINI reports which can impact on cases getting to court or cause delays in the process included:

- Timeliness and quality of file preparation by police, it has been reported that there are high levels of Requests for Further Information from the PPS, contributing to delay;
- Cases becoming statute barred- CJINI reports highlight two factors: the unallocated summary cases work queue in the Public Prosecution Service (PPS) and ineffective case management in the PSNI;
- The process of issuing a summons contributes to avoidable delay as a summons is required to be issued by the PPS, signed by a lay magistrate and served directly by the PSNI or increasingly by post. Delay has also resulted from a number of postal summons not being issued first time by the PSNI. CJINI has made some possible suggestions in this area;
- Adjourments are a major contributing factor in overall end to end case time and CJINI report that the reasons are a general lack of preparedness for court by both the prosecution and defence. A number of factors have been identified in contributing to adjourments including: prosecutor waiting on part of or a full file; the need to obtain external information such as forensic science or a medical report; and witness availability and lack of attendance in court. Some problems include civilian witnesses not invited and police not made available due to diversion to operational issues, leave or sickness.
- Case progression and case management- inadequate inter-agency case progression remains a root cause of avoidable delay at all stages of cases but particularly at the court

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Dame Helen Reeves and Peter Dunn "The Status of crime victims and witnesses in the twenty-first century" in A Bottoms and J.V Roberts (eds) *Hearing the Victim: Adversarial justice, crime victims and the State* (2010) Willan Publishing

stage where a number of justice organisations are involved. CJINI's most recent report highlights evidence of increasing collaboration between case progression staff.

- Delays at sentencing stage-CJINI suggested that a number of Pre-Sentencing Reports (PSRs) could be dealt with as Shorter Specific Reports (SSRs) which can be prepared more quickly by PBNI.

### **Domestic Violence Pilot**

There are a number of One Stop Shops across Northern Ireland that provide a venue for victims to drop in and seek advice and information from various professionals including Women's Aid, police, solicitor and social security agencies. These venues allow victims of domestic violence to call in to discuss issues rather than attending a police station. However, there have been two other police domestic violence pilots that may interest the Committee. These include partnership working between the police and Women's Aid support workers embedded in the Public Protection Units and the use of Body Digital Recording Equipment (head cameras). Both pilots currently are in operation and have been rolled out. CJINI has made recommendations in respect of these pilot projects.

### **Witness Care Units**

The police will provide a file to the local Witness Care Unit when a defendant is charged with a crime. The Witness Care Unit manages the care of the victims and witnesses from this point until the conclusion of the case. It has been highlighted in literature that no provisions have been put in place for victims where the perpetrator has not yet been detected or where the investigation is at an early stage.



Northern Ireland  
Assembly

Research and Library Service  
Research Paper

30 January 2012

**Fiona O'Connell**

# Victim Impact Statements

This paper provides information on Victim Impact Statements in Northern Ireland and comparative information on England and Wales, Scotland, Republic of Ireland, Canada, New Zealand, Australia and the United States.



## Key Points

- Some jurisdictions have enshrined victims' rights to make Victim Impact Statements in legislation, however some jurisdictions set out information in relation to Victim Impact Statements in non-legislative sources;
- In Northern Ireland, there is the provision for the use of Victim Impact Statements but not on a statutory basis;
- In some jurisdictions such Victim Impact Statements form one part of a comprehensive Victims' Rights Act.
- Some jurisdictions restrict the types of offences in which victims can make Victim Impact Statements, however there have been developments in England and Wales to widen the range of offences and the range of offences is currently being considered in the Republic of Ireland;
- Some jurisdictions allow victims or a representative of the victim to read their Victim Impact Statements aloud in court, however other jurisdictions only allow victims to make their representations in writing;
- Some jurisdictions allow victims to make Victim Impact Statements in other types of hearings such as bail, plea bargain hearings or early release hearings;
- Canada requires the court to inquire whether a victim has been afforded the opportunity to prepare a Victim Impact Statement, however in England and Wales judges are not required to ask whether a statement has been made;
- Most jurisdictions considered in this paper only allow the victim to comment on the impact of the crime on them and not on the sentence; however in Minnesota victims are allowed to comment on the sentence they feel would be appropriate

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## Executive Summary

In Northern Ireland there is provision for victims to make Victim Impact Statements to the police, Public Prosecution Service and Victim Support NI, but this is not set out on a statutory basis. The level of victims making Victim Impact Statements in NI is low, since June 2006 there have been 435 cases where Victim Impact Statements have been used in court proceedings. It appears that the use of Victim Impact Statements is in practice restricted to cases involving sexual offences or those of a violent nature. The Department of Justice notes that the use of Victim Impact Statements is ad hoc and it is currently consulting on ways to strengthen current provision.

In England and Wales, the scheme allowing victims to make an impact statement is called a Victim Personal Statement. The scheme is not set out in legislation but is contained in non legislative sources including Crown Prosecution Guidance and judicial practice directions. The scheme allows victims' input not only at the sentencing stage of the process but in decisions at other stages such as bail. Victim Personal Statements may only be made in writing and victims are not allowed to read statements aloud in court. Victims are allowed to describe the impact of the crime on them but not to comment on sentencing. The scheme's application has recently been extended to include other types of offences such as health and safety at work offences.

A scheme was introduced in Scotland in 2009 allowing victims of higher tariff offences to make a written Victim Impact Statement to the court. An evaluation of an earlier pilot scheme found that take up of the scheme was low. However the most notable factor whether a statement was made or not was the seriousness of the offence and in sexual offences victims were particularly likely to make a statement. Certain types of information cannot be included in the statement including a description of what happened or opinion on sentencing.

In the Republic of Ireland, Victim Impact Statements were placed on a statutory footing under the Criminal Justice Act 1993 which was subsequently amended by the Criminal Procedures Act 2010. Victim Impact Statements are restricted to a range of certain types of offences but the Minister for Justice and Equality has indicated that he plans to introduce legislation that will enable courts to have regard to the impact of the crime on the victim in a wider range of offences. Victims or the victim's representative may read out part or all of the statement to the court, however this is optional and voluntary. Victim Impact Reports are also permissible.

In Canada, victims have the right to make a Victim Impact Statement under the Criminal Code of Canada. Courts are required to inquire whether a victim has been advised of the opportunity to prepare a statement and may adjourn proceedings to enable a victim to do so. The Criminal Code provides that the victim may make a request to read aloud their statement which is prepared in accordance with procedures set out in the code.

In New Zealand, victims are entitled to make a Victim Impact Statement under the Victims' Rights Act 2002. The Act requires the prosecutor to make sure that all reasonable information is ascertained from the victim for submission to the judicial officer sentencing on the impact of the crime on them. The Act may also ascertain the views of victims in certain offences about the bail of an accused or an offender.

In the State of Victoria and Western Australia, Victim Impact Statements have been put on a statutory footing. In the State of Victoria, a person who has made an impact statement may request that any part of the statement is read aloud or displayed in the course of the sentencing hearing. In Western Australia, victims may make their statement verbally to the court but this needs to be discussed with the prosecutor who will consult with the judge or magistrate.

In the United States (US) at federal level, the Crime Victims' Rights Act, which was introduced in 2004 gives victims the right to be reasonably heard in any public proceeding in the district court involving release, plea, sentencing, or any parole proceedings. Most states in the US allow victims the right to be heard in sentencing in some form or another. In Minnesota victims have the right to make a Victim Impact Statement in sentencing, plea presentation, pre-sentence and early release proceedings. Victims may also request the sentence they feel would be appropriate.

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Annex A:

Breakdown of use of Victim Impact Statements in Northern Ireland 2006-2012

Annex B:

Department of Justice Consultation questions on the Provision of Victim Impact Statements and Victim Impact Reports

# 1 Introduction

This research paper has been prepared to assist the Justice Committee in its inquiry on victims and witnesses in the criminal justice system. Currently the Department of Justice is consulting on the provision of Victim Impact Statements and Reports in Northern Ireland.

The value of Victim Impact Statements has been highlighted in academic literature as they promote justice without interfering with the legitimate interests of defendants.<sup>1</sup> However research has indicated that the introduction of a Victim Impact Scheme will not result in the widespread use of statements and that only a minority of victims appear to want to submit a statement at sentencing.<sup>2</sup> This does not suggest that Victim Impact Statements are less important as a source of information for sentencers but for a number of reasons victims are content in remaining out of the sentencing process.<sup>3</sup> However research shows that most victims, who submitted a Victim Impact Statement, reported being satisfied with sentencing.<sup>4</sup>

This paper gives some background information on Victim Impact Statements and the current position on Victim Impact Statements in Northern Ireland. The paper also provides comparative information on schemes available in England and Wales, Scotland, the Republic of Ireland, Canada, New Zealand, Australia and the United States. The paper shows that the jurisdictions examined make some form of provision for victims and witnesses to inform the court of the impact of the crime on them. However the schemes differ from jurisdiction to jurisdiction. For example some jurisdictions establish the right of victims to make such statements on a statutory basis, while in others it is a non-statutory scheme. Provisions in some jurisdictions allow victims to read aloud their statements in court. Some jurisdictions also limit the possibility to make statements to victims of certain types of offences.

## 2 Victim Impact Statements and Reports in Northern Ireland

### 2.1 What are Victim Impact Statements?

A Victim Impact Statement (VIS) is a personal statement prepared by the victim or by another person on their behalf or bereaved relatives of a deceased victim. The VIS gives the victim the opportunity to inform the judge of the impact that a crime has had on them. According to the Department of Justice (DoJ) the functions of the VIS include:<sup>5</sup>

- To provide information to a sentencing judge about the impact of the crime which will assist the court on reaching a decision about the penalty;
- To provide a therapeutic aspect, helping victims recover from the harm caused by crimes committed against them;
- To educate the defendant about the full consequences of the crime, leading to greater understanding of the harm caused and acceptance of responsibility;
- To contribute to fairness in sentencing by ensuring that all relevant parties are heard.

1 PG Cassell "In Defense of Victim Impact Statements" in Ohio State Journal of Criminal Law [2009] Vol 6:611

2 JV Roberts "Victim Impact Statements: Lessons Learned and Future Priorities" in Victims of Crime Research Digest 2008, Issue No 1, 3.

3 Ibid

4 Ibid at, 4

5 Department of Justice "Consultation on Provision of Victim Impact Statements and Victim Impact Reports", December 2011

A VIS should not include comments about the offender or what sentence the victim thinks the offender should receive. A VIS is optional and is prepared with the consent of the victim before their case is heard in court. However the statement is taken into consideration by the sentencing judge alongside other information including the legislative authority or sentencing guidelines, the maximum sentence which can be given, whether the defendant pleaded guilty or not, the level of sentences in similar cases in the part and the powers of the court.<sup>6</sup>

## 2.2 What are Victim Impact Reports?

Victim Impact Reports differ from VIS as they are prepared following a request by the court for a professional assessment and they are obtained by the Public Prosecution Service.<sup>7</sup> The reports are prepared by professionals such as a psychologist or psychiatrist providing specialist opinion on the traumatic impact of the crime on the victim. Similar to VIS, the reports do not include comment about the offender or what a sentence should be. The victim does not provide direct comment for inclusion in a victim impact report.<sup>8</sup> Similar to VIS, Victim Impact Reports are used to assist the court in reaching a decision as to sentence and are not used until after a conviction has taken place.<sup>9</sup> If a court requests a Victim Impact Report, it will be lodged after conviction but in advance of sentencing.<sup>10</sup> The Victim Impact Report is available to the defence lawyer but the information contained in the report is not normally shared with support agencies that may be able to provide assistance to the victim to meet the needs identified by professionals in the report.<sup>11</sup>

## 2.3 The current position on Victim Impact Statements and Reports in Northern Ireland

In Northern Ireland, there is no legislative entitlement for the victim to make a Victim Impact Statement.<sup>12</sup> However there is provision to enable victims to make a VIS to the police, Public Prosecution Service or Victim Support Northern Ireland.<sup>13</sup> The PSNI policy on Dealing with Victims and Witnesses limits the use of VIS in indictable cases, in particular those cases involving sexual and serious physical assault stating that the "IO (investigating officer) should consider the need to record data concerning the effect of the crime on the victim".<sup>14</sup> The Code of practice for Victims of Crime published by the Department of Justice provides that if a victim has prepared a Victim Impact Statement the Public Prosecution Service will make sure it is provided to the Court.<sup>15</sup>

The completion of a VIS is optional and when completed it is forwarded to the Public Prosecution Service to include in the prosecutorial papers as an evidence statement. It is presented to the court after a finding of guilt and before a sentence is given.<sup>16</sup> The Department of Justice highlighted that the police, courts and Public Prosecution Service reported that the level of uptake by victims to make a Victim Impact Statement is low.<sup>17</sup> Statistics obtained from the Department of Justice show that since June 2006, there have

6 Ibid, 5

7 Ibid, 6

8 Ibid, 6

9 Criminal Justice Inspection Northern Ireland "The Care and Treatment of Victims and Witnesses in the Criminal Justice System" December 2011, 53

10 Information obtained from the Department of Justice with thanks via email on 23/01/12

11 Department of Justice "Consultation on Provision of Victim Impact Statements and Victim Impact Reports", December 2011, 7

12 Ibid

13 Ibid at, 6

14 PSNI Policy Directive "Dealing with Victims and Witnesses" PD 05/06, 17

15 Department of Justice "Code of Practice for Victims of Crime" 2010, 28-29

16 Department of Justice "Consultation on Provision of Victim Impact Statements and Victim Impact Reports", December 2011, 7

17 Ibid

been 435 cases where Victim Impact Statements have been used in court proceedings.<sup>18</sup> A breakdown on the use of Victim Impact Statements in Northern Ireland from 2006-2012 can be found in Annex A of this paper.

CJINI reported in its inspection on victims and witnesses in December 2011 that a member of the judiciary informed them, that whilst the use of VIS was not excluded in other cases, the practice was for their use in cases of a sexual or violent nature.<sup>19</sup> CJINI inspectors found that the use of the Victim Impact Statement was not well understood in Northern Ireland and that the absence of guidance meant that various professionals and the public took differing views as to how and when they could be used.<sup>20</sup> Inspectors also reported that a Judicial Review was being taken by an individual as a result of being told that a Victim Impact Statement would not be taken in that case. Despite the limitations and issues surrounding the use of Victim Impact Statements, CJINI indicated that a codified, regularised and well understood scheme in Northern Ireland could be beneficial in giving victims a voice and enhancing their role in the criminal justice process.<sup>21</sup> CJINI recommended that the Criminal Justice Board should introduce guidance on a Victim Impact Scheme in Northern Ireland, considering lessons learned from the implementation of the Victim Personal Statement in England and Wales.<sup>22</sup>

The Department of Justice published a consultation document on Victim Impact Statements and Reports in December 2011. The document explains that the system for the completion of a Victim Impact Statement in NI is ad hoc and that there is no operational guidance in place or explanation of the purpose of a statement to explain to victims why they are completing a statement.<sup>23</sup> The document states that the department sees the consultation “as an opportunity to strengthen current provision and build on local experience whilst taking account of experiences elsewhere.”<sup>24</sup> The consultation questions can be found in Annex B of this paper.

### 3 England and Wales

A Victim Impact Statement in England and Wales is called the Victim Personal Statement. The Victim Personal Statement (VPS) first emerged in England and Wales under the Victims’ Charter introduced by the Home Office in 1996 and the scheme was rolled out nationwide in 2001.<sup>25</sup> The VPS does not have a legislative basis but the aims and uses of the VPS are found in non- legislative sources including judicial directives, Crown Prosecution Service and Home Office guidance.<sup>26</sup>

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- 18 Information obtained from the Department of Justice with thanks via email on 23/01/12
- 19 Criminal Justice Inspection Northern Ireland “The Care and Treatment of Victims and Witnesses in the Criminal Justice System” December 2011, 53
- 20 Criminal Justice Inspection Northern Ireland “Treatment and Care of Victims and Witnesses in the Criminal Justice System in Northern Ireland” December 2011, 53
- 21 Ibid, 53
- 22 Ibid, 54
- 23 Department of Justice “Consultation on Provision of Victim Impact Statements and Victim Impact Reports”, December 2011, 14
- 24 Ibid 14
- 25 JV Roberts and M Manikis “Victim Personal Statements: A Review of Empirical Research” Report for the Commissioner for Victims and Witnesses in England and Wales, October 2011, 8
- 26 Ibid at 10. Some of the sources include the Crown Prosecution Service Guidance on Victim Personal Statements [http://www.cps.gov.uk/legal/v\\_to\\_z/victim\\_personal\\_statements/index.html](http://www.cps.gov.uk/legal/v_to_z/victim_personal_statements/index.html): Amendment no 22 to the Consolidated Criminal Practice Direction (Criminal Proceedings: Victim Personal Statement; Pleas of Guilty in the Crown Court; Forms) III.28.2a,c [2009] All ER (D) 136 (May)



The aim of the VPS is to provide an account of the impact of the offence from the person most affected by the crime.<sup>27</sup> The purpose of a VPS is to:<sup>28</sup>

- give victims the opportunity to state how the crime has affected them - physically, emotionally, psychologically, financially or in any other way;
- allow victims to express their concerns in relation to bail or the fear of intimidation by or on behalf of the defendant;
- provide victims with a means by which they can state whether they require information about, for example, the progress of the case;
- provide victims with the opportunity of stating whether or not they wish to claim compensation or request assistance from Victim Support or any other help agency;
- provide the criminal justice agencies with a ready source of information on how the particular crime has affected the victim involved.

As well as informing sentencing decisions, such statements can be considered at other stages such as the grant of bail.<sup>29</sup> Under the VPS scheme, the statements are not completed by the victim but are taken by the police. The officer who initially interviews the victim will ask them if they wish to make a VPS, therefore the process is entirely optional. There is guidance for police officers which gives advice on what the victim should include in their statement such as concerns about feeling vulnerable or intimidated, however the officer should also explain to the victim the limitations of the scheme, for example the victim's opinion on sentencing.<sup>30</sup> If the victim decides to make a statement it is transcribed at the end of a form (an MG11 witness statement) and it is added to the public file and is made available at all stages of the process.<sup>31</sup>

All victims are provided with a leaflet stating that they are entitled to make a statement at any point of the process prior to the disposal of a case. According to the legal guidance provided by the Crown Prosecution Service, the scheme envisages two stages in the process: Stage 1 where a victim from whom a witness statement is taken is given the opportunity to make a VPS when the statement is taken: and Stage 2 where the victim can provide a separate statement at any time to describe the longer term effects of the crime.<sup>32</sup> Once a VPS is made, it cannot be withdrawn or changed.<sup>33</sup>

Statements in England and Wales are in writing only, unlike other jurisdictions which permit victims to read their statements aloud in court.<sup>34</sup> All victims of crime in England and Wales can make a statement including victims of health and safety at work offences and of some road traffic offences.<sup>35</sup>

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27 JV Roberts and M Manikis "Victim Personal Statements: A Review of Empirical Research" Report for the Commissioner for Victims and Witnesses in England and Wales, October 2011, 8

28 [http://www.cps.gov.uk/legal/v\\_to\\_z/victim\\_personal\\_statements/index.html](http://www.cps.gov.uk/legal/v_to_z/victim_personal_statements/index.html)

29 JV Roberts and M Manikis "Victim Personal Statements: A Review of Empirical Research" Report for the Commissioner for Victims and Witnesses in England and Wales, October 2011, 10

30 [http://www.cps.gov.uk/legal/v\\_to\\_z/victim\\_personal\\_statements/index.html](http://www.cps.gov.uk/legal/v_to_z/victim_personal_statements/index.html)

31 JV Roberts and M Manikis "Victim Personal Statements: A Review of Empirical Research" Report for the Commissioner for Victims and Witnesses in England and Wales, October 2011, 11

32 [http://www.cps.gov.uk/legal/v\\_to\\_z/victim\\_personal\\_statements/index.html](http://www.cps.gov.uk/legal/v_to_z/victim_personal_statements/index.html)

33 JV Roberts and M Manikis "Victim Personal Statements: A Review of Empirical Research" Report for the Commissioner for Victims and Witnesses in England and Wales, October 2011, 43

34 *Ibid*, 11

35 JV Roberts and M Manikis "Victim Personal Statements: A Review of Empirical Research" Report for the Commissioner for Victims and Witnesses in England and Wales, October 2011, 12

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In England and Wales there is no statutory basis for the VPS, therefore courts are not statutorily obliged to consider a VPS and are not required to make an inquiry about a statement or whether a victim has been given the opportunity to submit a statement.<sup>36</sup>

Research in England and Wales indicates that there is considerable variability in the proportion of victims who recalled being offered the opportunity to make a VPS across the different Local Criminal Justice Board area: from 29% in London to 63% in Northumbria, a difference of 34%.<sup>37</sup> The percentage of victims who actually recalled making a VPS also varied, from 41% in Cumbria to 71% in Cambridgeshire.<sup>38</sup> A number of possible factors were cited regarding the low response rate including:<sup>39</sup>

- the system could do a better job of informing victims about the scheme;
- victims may wish to minimise their engagement with the system; the victim may believe that the seriousness of the crime did not warrant this level of engagement with the system;
- participation rates are also likely to be affected by the attitudes of criminal justice professionals to victim input schemes; there is no statutory duty on police, prosecutors or any other professionals to inform victims of the VPS.

## 4 Scotland

The Victim Statement Scheme was introduced in Scotland in 2009.<sup>40</sup> The scheme allows victims of serious crime to make a written statement to the court on how a crime has affected them emotionally, physically or financially.<sup>41</sup> The statement will be given to the court if the accused pleads guilty or is found guilty after a trial but before a sentence is passed. A copy of the statement is also given to the defence. The judge must consider all the circumstances of the case and the statement and decide what weight must be given to it. Certain types of information should not be included in the statement such as a description of what happened, how the crime affected others or what sentence the victim thinks the accused should receive.

The Procurator Fiscal (Prosecutor) keeps the statement with the file and arranges for copies to be given to the judge and the defence team; however the defence will not usually be given the statement until after the defendant has pled guilty or has been found guilty. Once a statement has been made it cannot be withdrawn. However if something has changed, the victim can submit another to update information provided in the first statement. If a victim of crime is under the age of 14 they cannot complete a statement themselves. A parent or carer can complete a statement on their behalf. If a victim has died, up to four near relatives can make a victim statement.<sup>42</sup>

An evaluation of the initial pilot statement scheme introduced in 2003, found that the overall participation rate for the scheme was 14.9%, lower than that for the pilot scheme in England and Wales at 30%. The explanation given was that the Scottish pilot scheme covered a wider

36 Ibid at, 13

37 Ibid, 20

38 Ibid, 21

39 Ibid, 23

40 The scheme was established after a pilot scheme was piloted in a number of Sherriff Courts in Ayr, Edinburgh and Kilmarnock and in the High Court of Justiciary in Edinburgh and Kilmarnock. The pilots ran for a two year period and an evaluation of the scheme was published in 2007. See F Leverick and P Duff (2007) "An Evaluation of the Pilot Statement Schemes in Scotland", 8.

41 <http://www.victimsofcrimeinscotland.org.uk/the-justice-process/court-process/victim-statement-scheme/>

42 <http://www.scotland.gov.uk/Resource/Doc/256204/0076050.pdf>

range of offences.<sup>43</sup> The evaluation found that the most common reason for not making a statement was that the impact of the crime was not perceived as serious (53%).<sup>44</sup> The evaluation found that the most notable factor for whether or not a statement was made was the seriousness of the offence in question and that victims of sexual offences were particularly likely to make a statement.<sup>45</sup> Subsequently the Scottish Government in 2009 made a national scheme available for higher tariff crimes in cases heard in a High Court or in cases where a Sheriff sits with a jury (courts of solemn jurisdiction).<sup>46</sup>

## 5 Republic of Ireland

Victim Impact Statements which were previously used on an ad hoc basis in the Criminal Justice System in the Republic of Ireland have been placed on a statutory footing under Section 5 of the Criminal Justice Act 1993.<sup>47</sup> This provision requires the court when determining a sentence to be imposed on a person, to take into account and receive any evidence or submissions concerning the effect of the offence on the person on whom the offence was committed.<sup>48</sup> This provision was amended by Section 4 of the Criminal Procedures Act 2010 which expanded the range of offences in which the court was required to consider the impact of the crime on the victim to include:<sup>49</sup>

- sexual offences;
- violence or threats or violence;
- offences under the Non-Fatal Offences Against the Person Act 1997 which include assault causing harm, harassment and false imprisonment;<sup>50</sup>
- attempts to commit or conspire to commit, aid, abet, procure or incite commission of the above offences.

The Justice Minister Alan Shatter has indicated that he will introduce legislation that will enable the courts to have regard to the impact on victims and their families in a wider range of offences, including burglary, theft, road traffic offences that cause serious injury and offences resulting from anti-social behaviour.<sup>51</sup>

A Victim Impact Statement is to be given to the court subsequent to conviction and prior to sentencing.<sup>52</sup> The statement should contain an account of the effect of the offence on the

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43 F Leverick and P Duff (2007) "An Evaluation of the Pilot Statement Schemes in Scotland", 26.

44 *Ibid*", 6.

45 *Ibid*", 26

46 The Scottish Government "Victims voices to be heard" 01/04/09 <http://www.scotland.gov.uk/news/releases/2009/03/31105605>

47 Rape Crisis Network Ireland "Victim Impact Statements/ Report: A guide for Victim Supporters from Rape Crisis Network Ireland" Match 2011, funded by the Commission for the Support of Victims of Crime

48 Criminal Justice Act 1993, section 5, <http://www.irishstatutebook.ie/1993/en/act/pub/0006/sec0005.html#sec5>

49 <http://www.irishstatutebook.ie/2010/en/act/pub/0027/sec0004.html#sec4>

50 <http://www.irishstatutebook.ie/1997/en/act/pub/0026/index.html>

51 Speech by Mr Alan Shatter T. D. Minister for Justice and Equality, at the fifth meeting of the Victims of Crime Consultative Forum Ashling Hotel, Parkgate Street Dublin 1 April, 2011  
<http://www.justice.ie/en/JELR/Pages/SP11000031>

52 Rape Crisis Network Ireland "Victim Impact Statements/ Report: A guide for Victim Supporters from Rape Crisis Network Ireland" Match 2011, funded by the Commission for the Support of Victims of Crime,2

victim's physical, emotional, psychological and financial well-being along with any other effect on the victim.<sup>53</sup> Victims can voluntarily make a statement; they are not mandatory.<sup>54</sup>

The victim of the offence can make a victim impact statement or a family member may make the statement.<sup>55</sup> Family member means:<sup>56</sup>

- A spouse or partner of the person;
- A child, grandchild, parent, grandparent, brother, sister, uncle, aunt, nephew, or niece of the person;
- A person who is acting in loco parentis to the person;
- A dependant of the person; or
- Any other person whom the court considers to have had a close connection with the person.

There is a range of circumstances in which a family member may make a statement including where the victim of the offence:

- is a child under 14, the child or his or her parent or guardian may give evidence as to the effect of the offence concerned on the child; or
- is a person with a mental disorder (not resulting from the offence concerned) the person or family member may give evidence as to the effect of the offence concerned on that person; or
- is a person with a mental disorder (not resulting from the offence concerned, who is also a child, the person or his or her parent or guardian may give evidence as to the effect of the offence concerned on the child; or
- is a person who is ill or incapacitated as a result of the offence, a family member of the person may give evidence as to the effect of the offence concerned on that person and on his/her family members;
- has died as a result of the offence, a family member of the person may give evidence as to the effect of the offence concerned on the person between the commission of the offence and his or her death (where relevant), and on the family members of the person who has died.<sup>57</sup>

The main focus of the Victim Impact Statement is on the impact of the offence for which a sentence is being imposed and not on any other offence which the offender may have been originally charged or tried.<sup>58</sup> There are no official guidelines as to the structure and content of a Victim Impact statement.<sup>59</sup> However Rape Crisis Network Ireland has published a guide which contains information on what should be included in a statement and what should not be included. The statement should identify the victim, contain an acknowledgement that the victim does not object to the statement being given to court and include the full name of the person who wrote the statement and be signed and dated by the victim. The statement should not include the opinion of the victim as to the sentence to be imposed.<sup>60</sup>

53 Rape Crisis Network Ireland "Victim Impact Statements/ Report: A guide for Victim Supporters from Rape Crisis Network Ireland" March 2011, funded by the Commission for the Support of Victims of Crime, 2

54 Rape Crisis Network Ireland "Victim Impact Statements/ Report: A guide for Victim Supporters from Rape Crisis Network Ireland" March 2011, funded by the Commission for the Support of Victims of Crime, 2.

55 Section 5 (2) (b) of the Criminal Justice Act 1993, as amended by section 4 of the Criminal Procedure Act 2010.

56 Section 5 (6) (a)-(e) of the Criminal Justice Act 1993

57 Section 5(3)(b) of the Criminal Justice Act 1993, as amended by the 2010 Act.

58 Rape Crisis Network Ireland "Victim Impact Statements/ Report: A guide for Victim Supporters from Rape Crisis Network Ireland" March 2011, funded by the Commission for the Support of Victims of Crime, 5.

59 Ibid, 5.

60 Ibid, 5.

The Prosecution is responsible for presenting the Victim Impact Statement to the court and has a responsibility to ensure that the statement confines itself to the impact of the offence on the victim. The defence are also given a copy of the statement in advance to allow objections to be raised regarding its contents.<sup>61</sup> Victims or the victim's representative may read out part or all of the statement to the court; however this is optional and voluntary.<sup>62</sup>

Victim Impact Reports are also permissible under section 5 of the 1993 Act as amended. A Victim Impact Report is written by another person assessing the effects of the crime on the victim. The report should be attached to the Victim Impact Statement and presented to the court as an appendix to the statement unless a judge orders otherwise.<sup>63</sup>

## 6 Canada

Victims have a right to complete a Victim Impact Statement under section 722 of the *Criminal Code of Canada (the Code)*. Section 722 (1) provides:

*“For the purpose of determining the sentence to be imposed on an offender or whether the offender should be discharged pursuant to section 730 in respect of any offence, the court shall consider any statement that may have been prepared in accordance with subsection (2) of a victim of the offence describing the harm done to, or loss suffered by, the victim arising from the commission of the offence.”*

The Code sets out the procedure for the Victim Impact Statement which must be prepared in writing in accordance with procedures established by a designated programme and filed with the court.<sup>64</sup> The administration of Victim Impact Statements falls under the jurisdiction of the provinces and each province has a different scheme with specific guidelines and forms.<sup>65</sup>

Courts are required to inquire of the prosecutor whether the victim has been advised of the opportunity to prepare a statement and may adjourn proceedings to permit the victim to prepare a statement.<sup>66</sup>

The legislation provides that a victim may make a request to the court to read aloud their statement prepared in accordance with the procedure set out in the Code.<sup>67</sup> Research has indicated that only a small minority of victims avail themselves of the opportunity to deliver their Victim Impact Statement orally to the court; however those individuals who do so benefit greatly from the experience.<sup>68</sup>

The preparation of a Victim Impact Statement is voluntary, no victim is required to make a victim impact statement. However where a statement has been prepared, consideration of the statement by a sentencing judge is mandatory.<sup>69</sup> An impact statement is not used unless or until a defendant is convicted. The statement can also be used in the case of a plea bargain.

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61 Ibid, 6.

62 Rape Crisis Network Ireland “Victim Impact Statements/ Report: A guide for Victim Supporters from Rape Crisis Network Ireland” March 2011, funded by the Commission for the Support of Victims of Crime, 6.

63 Ibid, 3.

64 Criminal Code of Canada, <http://laws-lois.justice.gc.ca/eng/acts/C-46/page-393.html>

65 JV Roberts and M Manikis “Victim Personal Statements: A Review of Empirical Research” Report for the Commissioner for Victims and Witnesses in England and Wales, October 2011, 45

66 Section 722.2 of The Criminal Code of Canada

67 Section 722 (2.1) of the Criminal Code of Canada

68 Victims of Crime Research Digest 2008, Issue No 1, p 4. Available at [www.canada.justice.gc.ca/eng/pi/rs](http://www.canada.justice.gc.ca/eng/pi/rs)

69 Victim Impact Statements prepared by the Canadian Resource Centre for Victims of Crime <http://www.crcvc.ca/docs/VictimImpactStatements.pdf>

The Victim Impact Statement will be shared with the defence and when the statement has been entered into court it becomes a matter of public record.<sup>70</sup>

According to academic literature rates of statement submission or participation in Canada are 23%.<sup>71</sup>

## 7 New Zealand

Victims have a statutory entitlement to submit a Victim Impact Statements under the Victims' Rights Act 2002.<sup>72</sup> Section 17 of the 2002 Act requires the prosecutor to make sure that all reasonable information is ascertained from the victim for submission to the judicial officer sentencing the offender on the following matters:<sup>73</sup>

- any physical injury or emotional harm suffered by the victim through, or by means of, the offence; and
- any loss of, or damage to, property suffered by the victim through, or by means of, the offence; and
- any other effects of the offence on the victim.

The information must be put into writing or recorded in another way such as audio or videotape and submitted to the judicial officer sentencing the defendant.<sup>74</sup> The information must be submitted by the prosecutor in the form in which it was recorded, but requests can be made by the prosecutor, the victim or a person named by the victim to read all or part of the statement.<sup>75</sup> The legislation provides that the Victim Impact Statement can take a number of forms including any recording, summary, transcript, or other copy of information of that kind.<sup>76</sup> The offender may not be given a copy of the Victim Impact Statement to keep unless the victim consents to this.<sup>77</sup> Furthermore, every person who receives or makes a copy or copies of a victim impact statement during proceedings must return the copy or copies to a member of court staff as soon as practicable after the end of the proceedings.<sup>78</sup>

Section 30 of the 2002 Act requires the court in certain types of offences including sexual offences, or one that resulted in the serious injury or death of a person to ascertain the views of a victim about the release on bail of an accused or an offender.

Academic literature suggests that participation rates in New Zealand are 14%.<sup>79</sup>

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70 Victim Impact Statements prepared by the Canadian Resource Centre for Victims of Crime

71 JV Roberts "Listening to the Crime Victim: Evaluating Victim Input at Sentencing and Parole", in *Crime and Justice* Vol 38 No 1 (2009) p 362.

72 Victim Impact Statements were initially introduced in legislation under the Victims of Offences Act 1987, however this legislation was replaced by The Victims' Rights Act 2002, for further information see the following links: <http://www.justice.govt.nz/publications/global-publications/s/sentencing-policy-and-guidance-a-discussion-paper/9.-the-role-of-victims-in-sentencing> and <http://www.justice.govt.nz/publications/publications-archived/2002/victims-rights-act-2002-a-guide-for-agencies-dealing-with-victims-of-offences/introduction>

73 <http://www.legislation.govt.nz/act/public/2002/0039/latest/DLM157874.html>

74 S 19 of the Victims' Rights Act 2002

75 S 21 of the Victims' Rights Act 2002

76 S 22 of the Victims' Rights Act 2002

77 S 23 of the Victims' Rights Act 2002, <http://www.justice.govt.nz/publications/publications-archived/2002/victims-rights-act-2002-a-guide-for-agencies-dealing-with-victims-of-offences/victim-impact-statements>

78 S 24 of the Victims Rights Act 2002

79 JV Roberts "Listening to the Crime Victim: Evaluating Victim Input at Sentencing and Parole", in *Crime and Justice* Vol 38 No 1 (2009) p 362



## 8 Australia

This section focuses on two Australian states: the State of Victoria and Western Australia which both make statutory provision for Victim Impact Statements.

### 8.1 State of Victoria

In Victoria, victims have a statutory right to make a Victim Impact Statement under Part 6, Division 1A of the Sentencing Act 1991 to assist the court in determining the sentence.<sup>80</sup> A Victim Impact Statement can be made in writing by statutory declaration or in writing by statutory declaration and orally by sworn evidence.<sup>81</sup> The Victim Impact Statement must contain information on the impact of the offence on the victim and of any injury, loss or damage suffered by the victim. The Statement may also take the form of photographs, drawings or poems and other material that relates to the impact of the offence on the victim.<sup>82</sup> The legislation also allows medical reports to be attached to the Victim Impact Statement on medical matters concerning the victim.<sup>83</sup> If a victim is to provide a Victim Impact Statement, the victim must within a reasonable time before the sentencing takes place: file a copy with the court and provide a copy to the offender or the legal practitioner representing the offender and the prosecutor.<sup>84</sup> Victims may also be examined and cross examined on their Victim Impact Statement.<sup>85</sup> The legislative provisions enable the reading aloud of a Victim Impact Statement in Court. A person who has made an impact statement may request that any part of the statement is read aloud or displayed in the course of the sentencing hearing. The statement can be read by the person making the request or a person chosen by the person making the request or by the prosecutor.<sup>86</sup> The court may also rule as inadmissible the whole or any part of the Statement, including the whole or any part of the medical report. Academic literature indicates that participation rates in Victoria are 16%.<sup>87</sup>

### 8.2 Western Australia

Victims have a right to make a Victim Impact Statement in Western Australia under the Sentencing Act 1995, Part 4 Division 4.<sup>88</sup> The aim of the Victim Impact Statement is to assist the court in determining the proper sentence for the offender.<sup>89</sup> The legislation also makes provision covering who may give a statement and these persons include the victim of the offence or in the case of age disability or incapacity; another person may give it on the victims' behalf if the court is satisfied it is appropriate to do so.<sup>90</sup> The Victim Impact Statement is a written or oral statement which must:<sup>91</sup>

- give particulars of any injury, loss, or damage suffered by the victim as a direct result of the offence; and
- describe the effects on the victim of the commission of the offence.

80 Section 95A of the Sentencing Act 1991

81 Section 95A (2) of the Sentencing Act 1991

82 Section 95 (1) and (1a) of the Sentencing Act 1991

83 Section 95BA of the Sentencing Act 1991

84 Section 95C of the Sentencing Act 1991

85 Section 95D of the Sentencing Act 1991.

86 Section 95F of the Sentencing Act 1991

87 JV Roberts "Listening to the Crime Victim: Evaluating Victim Input at Sentencing and Parole", in *Crime and Justice* Vol 38 No 1 (2009) p 362

88 [http://www.austlii.edu.au/au/legis/wa/consol\\_act/sa1995121/](http://www.austlii.edu.au/au/legis/wa/consol_act/sa1995121/)

89 Section 24, Part 4 Division 4 of the Sentencing Act 1995

90 Section 24 (2) of the Sentencing Act 1995

91 Section 25 (1) (a)-(b) of the Sentencing Act 1995

The legislation also makes it clear that a victim impact statement is not to address the way in which or the extent to which the offender ought to be sentenced.<sup>92</sup> The court has the powers to make the Victim Impact Statement available to the prosecutor and the offender on such conditions as it thinks fit.<sup>93</sup> The court also may rule inadmissible the whole or any part of the Victim Impact Statement.<sup>94</sup> Victims may make their statement verbally to the court but this needs to be discussed with the prosecutor who will consult with the judge or magistrate. The judge or magistrate will make a formal decision.<sup>95</sup>

## 9 The United States

Victim Impact Statements are written and oral statement concerning the impact of the crime on the victim and are commonly used in sentencing.<sup>96</sup> The crime victim's right to deliver a victim impact statement at sentencing is enshrined in the United State's criminal justice system and victims have this right in all federal sentencing decisions and in almost all state ones.<sup>97</sup> At federal level the Crime Victims' Rights Act which was enacted in 2004, gives the victim the right to be reasonably heard in any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.<sup>98</sup> Forty eight states in the US guarantee victims the right to be heard, in some form or another at sentencing; in the remaining two the matter is left to the judge's discretion.<sup>99</sup> State and federal statutes tend to vary in relation to Victim Impact Statements.<sup>100</sup> However it may be useful to look at one State, Minnesota, which provides victims with the right to give a Victim Impact Statement.

### 9.1 Minnesota<sup>101</sup>

In Minnesota, victims were given rights to make Victim Impact Statements at sentencing hearings in 1988. Victims also have a right to submit impact statements at plea presentation hearings. Victims may also provide an impact statement as part of the pre-sentence investigation and in early release proceedings.

Corrections personnel are required to notify victims when sentencing is due to take place and to inform them of their right to be present and make a Victim Impact Statement. If a victim chooses to participate in a sentencing hearing, they may present the statement to the court or request that the prosecuting attorney or victim advocate present the statement. In the statement, victims can write or speak to the court about their physical or emotional injuries they have suffered, financial losses incurred, the impact of the crime on their family, their feelings about the offender and the overall impact of the crime. Unlike other jurisdictions, crime victims may also request the sentence they feel would be appropriate and to explain the reasons behind their request.

92 Section 25 (2) of the Sentencing Act 1995

93 Section 26 (1) of the Sentencing Act 1995

94 Section 26 (2) of the Sentencing Act 1995

95 [http://www.courts.dotag.wa.gov.au/v/victim\\_impact\\_statement\\_print.aspx](http://www.courts.dotag.wa.gov.au/v/victim_impact_statement_print.aspx)

96 National Center for Victims of Crime <http://www.ncvc.org/ncvc/main.aspx?dbName=DocumentViewer&DocumentID=32515>

97 P G Cassell "In defense of Victim Impact Statements" Ohio State Journal of Criminal Law [2009] Vol 6:611

98 <http://www.ojp.usdoj.gov/ovc/rights/legislation.html>

99 P G Cassell "In defense of Victim Impact Statements" Ohio State Journal of Criminal Law [2009] Vol 6:615

100 Robert Johnson Anoka County Attorney, Minnesota on " The Use of Victim Impact Statements at Sentencing Hearings in the United States" at the International Association of Prosecutors, Copenhagen, Denmark 2005, [http://www.iapcopenhagen.org/Files/Filer/Papers/Johnson\\_IAPVictimImpactStmts0905.pdf](http://www.iapcopenhagen.org/Files/Filer/Papers/Johnson_IAPVictimImpactStmts0905.pdf)

101 The following information is obtained from a paper given by Robert Johnson Anoka County Attorney, Minnesota on " The Use of Victim Impact Statements at Sentencing Hearings in the United States" at the International Conference

## 10 Conclusion

This paper has reviewed mechanisms by which the effect of crimes on victims can be considered in the criminal justice process. Common law jurisdictions have provided for mechanisms known as Victim Impact Statements and in some countries Victim Impact Reports. A Victim Impact Statement allows a victim to make known the effects of the crime on them; a Victim Impact Report is prepared by professionals describing the effects of the crime on the victim.

In many common law countries, there is a statutory basis for Victim Impact Statements (e.g. Republic of Ireland, Canada, New Zealand, Australia and the United States). In England and Wales, Scotland and Northern Ireland, there is no legislative basis for Victim Impact Statements. In some other common law countries, the provision for Victim Impact Statements is part of a more comprehensive victims' rights Charter or Act such as New Zealand which has the Victims Rights Act 2002 and in the United States, the Crime Victims' Rights Act enacted in 2004.

Usually victims are not allowed to comment on their views on sentencing. However in Minnesota victims are allowed to request a sentence. In some jurisdictions, statements are provided in written form only, while in others victims are allowed to read their statements aloud in court proceedings.

## Annex A- Breakdown on the use of Victim Impact Statements in Northern Ireland 2006-2012

Year	Business Area	Document Code	Document Name	Number
2006	CRC	VIREP	Victim Impact Statements / Report(s)	13
	MCP	VIREP	Victim Impact Statements / Report(s)	0
				13
2007	CRC	VIREP	Victim Impact Statements / Report(s)	41
	MCP	VIREP	Victim Impact Statements / Report(s)	2
				43
2008	CRC	VIREP	Victim Impact Statements / Report(s)	69
	MCP	VIREP	Victim Impact Statements / Report(s)	2
				71
2009	CRC	VIREP	Victim Impact Statements / Report(s)	87
	MCP	VIREP	Victim Impact Statements / Report(s)	2
				89
2010	CRC	VIREP	Victim Impact Statements / Report(s)	83
	MCP	VIREP	Victim Impact Statements / Report(s)	0
				83
2011	CRC	VIREP	Victim Impact Statements / Report(s)	125
	MCP	VIREP	Victim Impact Statements / Report(s)	2
				127
2012	CRC	VIREP	Victim Impact Statements / Report(s)	9
	MCP	VIREP	Victim Impact Statements / Report(s)	0
				9
<b>Total (June 2006 - 10 Jan 2012):</b>				<b>435</b>

## Annex B-Department of Justice Consultation questions on the Provision of Victim Impact Statements and Victim Impact Reports

1. Are the functions of a Victim Impact Statement appropriate? Are there any gaps?
2. How can we ensure that victims understand what the purpose of a Victim Impact Statement is and how might they be used? Would the development of new guidance be helpful and what should this contain? What other measures would assist their understanding?
3. Would placing the entitlement to make an impact statement in legislation make a victim more likely to take up this opportunity? Alternatively, would other enabling measures (such as practice directives and guidelines) be more effective?
4. Should measures be in place, with consent of the victim, to enable disclosure of information in the Victim Impact Statement with other justice organisations with the aim of meeting the victim concerns.?
5. Should we allow for restrictions to be placed on how the Statement is used?
6. In which circumstances would you consider it appropriate for a victim to submit an impact statement? Do you see any practical difficulties with extending the use of such statements in this way?
7. Should others be permitted to read the impact statement in open court with the consent of the victim?
8. Should a victim be given the choice to personally read aloud their written statement in court if they wish to do so, do you consider victims have a desire for such a measure?
9. What would you consider as the appropriate name for an impact statement? Should we opt for a 'Victim Personal Statement' as in England and Wales or should we opt for a 'Victim Impact Statement' as it is called elsewhere. What is your preference?
10. Which organisation should contact a victim with the offer to make an impact statement?
11. Who should complete the Victim Impact Statement? Should this be the victim themselves or should someone else do this on their behalf, using their words?
12. Experience in other jurisdictions indicates victims are more inclined to submit an impact statement for serious offences. Do you think that Victim Impact Statements should only be used for specific offences? If so, what should these be?
14. Would it be appropriate to stipulate in guidance the number of persons who may write a Victim Impact Statement in the case of a deceased or incapacitated victim and to specify their relationship to the victim?
15. Would the arrangements identified above assist children to contribute to a Victim Impact Statement? Are there other measures which could be included?
16. What measures would support vulnerable adult victims to make a Victim Impact Statement? Would specifying the appropriate persons who may be nominated to make a statement be a supportive measure?

17. Do Victim Impact Reports serve a useful purpose and is it worthwhile for them to continue? If so should arrangements be considered to enable a range of organisations to provide a Victim Impact Report?
18. Is there sufficient awareness and understanding of the purpose of a Victim Impact Report? If not, how might we address this?
19. Should protocols and guidance be considered for a Victim Impact Report to be shared with organisations which can offer support to the victim or who have responsibilities for working with the offender? Could they be used to help the justice agencies “signpost” victims to services they may need outside the justice sector?





Northern Ireland  
Assembly

Research and Information Service  
Research Paper

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20 February 2012

**Fiona O'Connell**

Supplementary Briefing Paper  
on Victims and Witnesses  
and the Community

# 1 Introduction

This briefing paper is provided to assist the Committee for Justice in its inquiry on Victims and Witnesses. During a presentation to the Committee on three other papers related to the inquiry, two issues were identified for follow up information. They were as follows:

- Whether staff in Witness Care Units (WCUs) in England and Wales have legal powers to compel information to overcome difficulties in getting information from other agencies:
- Whether there are mechanisms to reassure or communicate to the wider community that a legal process has taken its course.

## 2 Witness Care Units

Witness Care Units provide support and information to victims and witnesses in cases where a charge has been brought. They work to a set of minimum requirements, many of which are on a statutory footing under the Code of Practice for Victims of Crime. The Witness Care Units are jointly staffed by both the police and CPS personnel. Witness Care Officers working in the Witness Care Units do not themselves have any legal powers to compel information from other criminal justice agencies but would refer any issues they have in getting information to either the CPS prosecutor or the officer in charge for them to use their legal authority as appropriate.<sup>1</sup>

## 3 Mechanisms to reassure or communicate to the wider community that legal processes have taken their course

This section provides information on mechanisms which meet the needs of communities by agencies. In particular there is information on guidance published in England and Wales issued to criminal justice agencies on publicising information on individual sentencing outcomes and some practical examples contained within the guidance.

### **Formal Structures enabling communities to raise concerns**

There are a number of structures in place to gain information on community opinions. Community Safety Partnerships (CSPs) were established on a voluntary basis in 2003 and bring together police, local councils, voluntary, community and business sectors, the Housing Executive and other services such as youth justice and probation to develop and deliver action plans to tackle crime and disorder. Community Safety managers can explain local crime reduction schemes and provide information on what actions are being taken to tackle problems.<sup>2</sup>

District Policing Partnerships (DPPs) consult with the Community and establish in conjunction with the District Commander policing priorities and monitor police performance against the local policing plan. The main responsibilities of the DPP are to:<sup>3</sup>

- Provide views to the District Commander on any matter concerning the policing of the district.
- Monitor the performance of the police in carrying out the policing plan.

1 Information obtained from the Crown Prosecution Service via email with thanks on 20/02/12

2 <http://www.nidirect.gov.uk/index/information-and-services/crime-justice-and-the-law/crime-prevention/community-safety.htm>

3 <http://www.districtpolicing.com/index/int-roles.htm>

- Make arrangements for getting the views of the public on matters concerning the policing of the district and gaining their co-operation with the police in preventing crime.
- Act as a general forum for discussion and consultation on matters affecting the policing of the district.

From April 2012, Policing and Community Safety Partnerships (PCSPs) will undertake the responsibilities of the DPPs and CSPs across the 26 council areas.<sup>4</sup>

### **Community Impact Statements**

Community Impact Statements were piloted in 12 areas in England and Wales for a six month test period in 2009.<sup>5</sup> A Community Impact Statement is a report in a short, standard format that puts the offences in a wider context in which they are committed, highlighting their impact on the local community. An example of a Community Impact Statement can be found at **Annex A** of this paper. The statement is compiled and authorised by the police but it might be equally applied by a partner organisation or individual for example crime reduction partnerships or community safety partnerships.<sup>6</sup> The community impact statement sets out clearly information about local crime statistics, anti-social behaviour data and summaries of community concerns. The statement covers a set geographical area and remains current for a set period of time, usually 3 months after which it will be updated. The community impact statement usually takes the form of a witness statement under section 9 of the Criminal Justice Act 1967.<sup>7</sup> The statement can be used in the following ways:<sup>8</sup>

- (a) As a tool for police and CPS to inform the decision to charge a suspect with an offence, where relevant.
- (b) As a tool used by the police and other local partners to inform restorative justice interventions that contribute towards amending the harm inflicted upon the community, where relevant.
- (c) As a tool used by the police and CPS to inform decisions on possible conditions of a conditional caution.
- (d) As a tool used by Probation Officers to inform their proposals for sentences, including community payback and reparation, as part of the pre-sentence report.
- (e) As a tool for Community Safety Partnerships to inform activity to tackle issues raised by the community.
- (f) As a tool used by the court to inform sentence.

A Ministry of Justice document notes that a review of the evidence was undertaken on the current use of community impact statements.<sup>9</sup> The UK Government in a response to a consultation document, whilst not making specific reference to community impact statements commits to “develop means by which decision makers can assess the impact of crime on

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4 <http://www.nidirect.gov.uk/index/information-and-services/crime-justice-and-the-law/crime-prevention/community-safety.htm>

5 The 12 areas included: Birmingham, Bradford, Devon and Cornwall and Leicester Avon and Somerset, Bedfordshire, Derbyshire, North Yorkshire, Warwickshire, Gateshead and Merthyr Tydfil, see UK Government Green Paper “Engaging Communities in Criminal Justice”, April 2009, 23 . <http://www.official-documents.gov.uk/document/cm75/7583/7583.pdf>

6 UK Government Green Paper “Engaging Communities in Criminal Justice”, April 2009,21

7 UK Government Green Paper “Engaging Communities in Criminal Justice”, April 2009,21

8 [http://www.cps.gov.uk/legal/a\\_to\\_c/community\\_impact\\_statement\\_-\\_adult/#what](http://www.cps.gov.uk/legal/a_to_c/community_impact_statement_-_adult/#what)

9 <https://www.justice.gov.uk/downloads/publications/corporate-reports/MoJ/increasing-access-local-criminal-justice.pdf>

community life, gather views on community priorities then use the information as part of the justice process.”<sup>10</sup>

The Criminal Justice Inspection Northern Ireland (CJINI) reported in its report on victims and witnesses in 2011 that community impact statements are a vehicle to enable the voice of communities to be expressed in the process.<sup>11</sup> CJINI acknowledged that communities may be victims in the same sense that individuals are victims.<sup>12</sup> In a previous report by CJINI into the Donagh sexual abuse cases inspection, inspectors reported that it became apparent that communities wish to have a voice at an appropriate point in the criminal justice process.<sup>13</sup>

Community impact statements can be used by defined groups to provide courts with factual details of the impacts of crime in their communities and are applicable post-conviction.<sup>14</sup> The Department of Justice (DoJ) has recently published a feasibility study on the use of community impact assessments. The study has concluded that “there is general opinion that providing a mechanism for communities to have a voice in the criminal justice system is desirable.”<sup>15</sup> However the Department stated that it did not consider it appropriate to introduce community impact assessments universally as a response to recommendations made by the Criminal Justice Inspection Northern Ireland. Rather, the DoJ suggested a more realistic approach is the use of Community Impact Assessments for specific offences, triggered by public interest with set criteria for referral for an assessment to augment direct victim impact statements or reports.<sup>16</sup> The DoJ suggested that the statement could be supplied to the court through the Public Prosecution Service or directly to the court at the discretion of the judge.<sup>17</sup> The report referred to the current consultation on victim impact statements which represents a good opportunity to consider how the voice of the community could be best accommodated in an overall impact scheme.<sup>18</sup>

### **Publicising information on individual sentencing outcomes**

A number of approaches have been adopted by criminal justice agencies in England and Wales when a verdict has been reached in a criminal case. Guidance has been produced in England and Wales for public authorities on publicising information about individual sentencing outcomes.<sup>19</sup> The Government emphasises its commitment to increasing the transparency and accountability of public services.<sup>20</sup> The guidance suggests there should be a presumption in favour of publicising outcomes of criminal cases because this would help to:<sup>21</sup>

- Reassure the law abiding public that the CJS is fair and effective, by publicising successes;
- Increase public trust and confidence in the CJS;
- Improve the effectiveness of criminal justice e.g by encouraging victims to report crimes and witnesses to come forward; and

10 Ministry of Justice “Breaking the Cycle: Government Response”, June 2011, p 11 <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle-government-response.pdf>

11 CJINI “The Treatment and Care of Victims and Witnesses in the Criminal Justice System” December 2011, 52

12 CJINI “The Treatment and Care of Victims and Witnesses in the Criminal Justice System” December 2011, 54

13 CJINI “The Treatment and Care of Victims and Witnesses in the Criminal Justice System” December 2011, 54

14 CJINI “The Treatment and Care of Victims and Witnesses in the Criminal Justice System” December 2011, 52

15 Department of Justice “A Feasibility Study into the Introduction of Community Impact Assessments to Northern Ireland”, December 2011, 24. [http://www.dojni.gov.uk/index/media-centre/a\\_feasibility\\_study\\_into\\_the\\_introduction\\_of\\_community\\_impact\\_assessments\\_to\\_northern\\_irelandstatements.pdf](http://www.dojni.gov.uk/index/media-centre/a_feasibility_study_into_the_introduction_of_community_impact_assessments_to_northern_irelandstatements.pdf)

16 Ibid

17 Ibid

18 Ibid, 24-25.

19 Criminal Justice System “Publicising Sentencing Outcomes: Guidance for public authorities on publicising information (including via the internet) about individual sentencing outcomes within the current legal framework”, June 2011

20 Ibid, 2

21 Ibid, 2

- Discourage potential offenders and reduce re-offending.

The guidance is in favour of publicising verdicts in Crown Court and magistrates' court cases in the great majority of cases. This includes fines, community sentences, absolute and conditional discharges, Financial Reporting Orders and Travel Restriction Orders where these are imposed as part of a sentence. However the guidance does not apply to out of court disposals such as cautions, conditional cautions, penalty notices for disorder and cannabis warnings.<sup>22</sup> It is emphasised that care should be taken if disclosure of a sentencing outcome also reveals personal information about a person other than an offender.<sup>23</sup> Guidance is given on information on when disclosure may not be appropriate for example where the information could be used to identify victims and witnesses, where it could be used to identify the offenders' family or where the offender is known to have specific vulnerabilities such as mental health issues or physical ill health.<sup>24</sup> It is advised that the publication of information should be timely and time limited, recommending that convictions remain publicised for no longer than a month and that such publicity material for example, web page, posters and leaflets are removed within six months of the conviction being recorded.<sup>25</sup> The guidance highlights that this is not a specific legal requirement under the Data Protection Act 1998 but the Rehabilitation of Offenders Act 1974 is relevant in this context.<sup>26</sup> It also recommends that consideration is given to where hard copy formats such as leaflets and posters are placed as officials need to be confident that they will be able to remove these publicity materials in order to comply with legislation.

The guidance provides some examples on how some criminal justice agencies have communicated the outcomes of individual sentences in England and Wales. These are as follows: <sup>27</sup>

- **Greater Manchester Police** have used one- off leaflets in Rochdale to provide information to the community on those who have been convicted of crime of particular concern. The guidance recommends that information about convictions relates to local priorities;
- **Hertfordshire Criminal Justice Board** has employed the South Bedfordshire News Agency to prepare short summaries of selected Crown Court case outcomes that are prominently displayed and regularly updated in the homepage of the police website;
- **West Midlands Police** tweets court results from Birmingham magistrates' court. The guidance states there is nothing to prohibit the use of social networking sites for the purposes of publishing sentencing outcomes;
- **Kent Police** regularly publicises magistrates' court results on the 'Justice Seen, Justice Done' part of its website. Details are also sent to local newspapers. In High profile cases at the Crown Court, details are also published on the website and sent to local media with photos of the convicted person where applicable.

Another example not referred to in the guidance is an initiative called '**Behind Bars Campaign**' which is a joint initiative between the Crown Prosecution Service and police in Dorset to inform the public of Crown Court convictions and sentences. Information is made available on Dorset Police service's website for a limited period in order to promote the openness, transparency and accountability of the criminal justice system to the people it serves.<sup>28</sup>

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22 Ibid,4

23 Ibid, 4

24 Ibid,5

25 Ibid, 5

26 Ibid

27 Ibid, 9

28 <http://www.dorset.police.uk/Default.aspx?page=2716>

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## 4 Conclusions

This briefing paper provides information on two issues identified by the Justice Committee for further information. The first issue is whether staff in WCUs in England and Wales have legal powers to compel information from other agencies. Staff in Witness Care Units (WCUs) in England and Wales do not themselves have any legal powers to compel information from other criminal justice agencies such as the CPS, Court Service and Police but would refer any issues they have in getting information to either the CPS prosecutor or the officer in charge for them to use their legal authority as appropriate.

The second issue identified was whether there was anything available to reassure or communicate to the wider community that legal processes have taken their course. In Northern Ireland, DPPs and CSPs enable communities to raise concerns about issues that affect them. There are mechanisms in place which enable communities to express their voice in the criminal justice process. For example, in England and Wales, Community Impact Statements have been piloted in a number of areas which enable communities to express the impact of an offence on the local community. The DoJ has recently published a feasibility study on the use of Community Impact Statements in Northern Ireland which indicates the possibility of the use of such statements for specific offences.

There are some initiatives that have been undertaken by some criminal justice agencies in England and Wales which are set out in guidance on the publication of information about individual sentencing outcomes. Such initiatives include using one-off leaflets, websites and social networking to publicise sentencing outcomes.



## ANNEX A- An example of a Community Impact Statement<sup>29</sup>

### COMMUNITY IMPACT STATEMENT

Area covered by the statement: St Ann's

Period covered by the statement: January–March 2008

#### Witness statement

This is the witness statement of Inspector Andy Townsend, stationed at St Ann's Police Station.

This statement consists of two pages, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated on it anything which I know to be false or do not believe to be true.

The following data reflects recorded crime in the area during the above period. The highlighted areas reflect the higher than average figures city-wide.

	St Ann's (4 beats)*				City-wide		
	Jan 08	Feb 08	Mar 08	Apr 07–Mar 08			
				Annual no.	Crimes per 1,000	Annual no.	Crimes per 1,000
All BCS crime	180	120	169	2,069	116.93	33,158	115.78
Theft from vehicle	21	15	20	231	13.06	5,601	19.56
Theft of vehicle	10	7	4	89	5.03	1,572	5.49
Vehicle interference	3	1	5	27	1.53	770	2.69
Burglary (per 1,000 households)	18	10	20	207	23.72	4,588	39.51
Theft of cycle	5	5	2	31	1.75	1,089	3.80
Theft from person	2	3	2	51	2.88	1,396	4.87
Common assault	6	3	6	97	5.48	1,693	5.91
Criminal damage	73	41	71	863	48.77	10,230	35.72
Wounding	22	26	24	316	17.86	4,950	17.28
Robbery	20	9	15	157	8.87	1,269	4.43
Drugs offences	36	33	23	258	14.58	2,106	7.35
ASB (core police incidents)	127	122	150	1,822	102.97	24,091	84.12

29

Ministry of Justice "Green Paper Engaging Communities in Criminal Justice", pgs 24-25 <http://www.official-documents.gov.uk/document/cm75/7583/7583.pdf>

St Ann's 4 beat Population =	17,694
City Population (based on 2006 ONS Mid-year estimates) =	286,400
St Ann's 4 beat Households =	8,727
City Households =	116,112

<b>* 4 St Ann's Beats:</b>	<b>Popl</b>	<b>Hseholds</b>
<i>St Ann's Well Road</i>	3,915	2,065
<i>Marmion</i>	3,004	1,437
<i>Marple Square</i>	3,047	1,478
<i>Wells Road</i>	7,728	3,747
	<b>17,694</b>	<b>8,727</b>

**Sources**

Crime and Drugs Partnership combined partnership data

**Concerns of the community**

- o Kingsthorpe Close – mini-motorbikes
- o Brewsters Road – young people and drug dealing
- o Duncombe Close – drug dealing/users in entrance ways

**Local Area Group** – meetings reflect the following areas for priority

- o Anti-social behaviour of youths on the street, particularly around the junction of Botary Avenue and Wells Road
- o Drug dealing and use in Sycamore Park
- o Requirement for CCTV on Kingsthorpe Close
- o Lighting for park area off Robin Hood Chase

**Beat priorities as at February 2008**

<b>Marmion</b> – Drug activities surrounding Stonebridge Centre
---

<b>Wells Road</b> – Autocrime and burglary hotspot Querneby/Blyth/Bennett Street
--

<b>St Ann's Well Road</b> – Drug dealing on Robin Hood Chase and Westville Gardens
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<b>Marple Square</b> – Drug dealing on Beverley Square and Duncombe Close
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Signed Insp Andrew Townsend

Dated 30 April 2008





Northern Ireland  
Assembly

Appendix 5

# Memoranda and Correspondence from the Department of Justice



- 1 28 October 2011 Briefing papers on the development of a new five-year strategy for victims and witnesses of crime
- 2 25 November 2011 Responses to questions raised during departmental briefing on 10 November 2011 and Victim and Witness Annual Action Plan 2011/12 progress report
- 3 8 December 2011 Criminal Justice Board Action Plan in response to the CJI report – *'The care and treatment of victims and witnesses in the criminal justice system in NI'*
- 4 12 January 2012 Response to draft themes and possible actions being considered for inclusion in the new strategy
- 5 12 January 2012 Plans to update Criminal Justice Board Action Plan
- 6 22 February 2012 Letter from the Minister of Justice enclosing correspondence from a bereaved family
- 7 6 April 2012 Revised Criminal Justice Board Action Plan on the Care and Treatment of Victims and Witnesses of Crime
- 8 29 May 2012 Victim and Witness Annual Action Plan 2012-13



FROM THE OFFICE OF THE MINISTER OF JUSTICE



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Our ref: Sub/1971/2011

Christine Darrah  
Committee Clerk  
Committee for Justice  
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28 October 2011

## NEW STRATEGY FOR VICTIMS AND WITNESSES OF CRIME

### Summary

**Business Area:** Justice Policy.

**Issue:** The development of a new five-year strategy for victims and witnesses of crime.

**Restrictions:** None.

**Action Required:** The Committee is invited to note the work that had been completed by the Department of Justice on the development of a new strategy for victims and witnesses of crime prior to the



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announcement of the Committee's inquiry, and how the Department now intends to take this work forward.

Officials Attending: Maura Campbell, Deputy Director, Criminal Justice Development  
Brendan O'Mahony, Criminal Justice Development  
Maurice Campbell, Criminal Justice Development

## BACKGROUND

1. On 9 June 2011, we informed the Committee of the Department's plans to develop a new strategy for victims and witnesses of crime, with a view to launching a public consultation in the autumn and having the strategy in place by April 2012. However, in light of the Committee's decision to hold its own inquiry into victims and witnesses of crime, to assist the development of the new strategy, the Minister has agreed that the Department will put on hold any further work on the development of the new strategy and defer launching a consultation process on a draft strategy pending the outcome of the Committee's inquiry.
2. Officials are due to attend the meeting scheduled for 10 November to brief the Committee on the Department's work to date on the new strategy, including the emerging themes and our initial thoughts on the types of outcomes we should be aiming to achieve. The original implementation plan for the development of the new strategy is attached (Appendix A). This was approved by the Criminal Justice Board in January, along with a set of draft principles produced by the Board to underpin the strategy (Appendix B), after work on the new strategy was commissioned by the Criminal Justice Delivery Group, chaired by the Minister of Justice.
3. The work completed to date has been substantially informed by the Victim and Witness Steering Group (VWSG), a sub-group of the Criminal Justice Board which

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includes representatives from Victim Support Northern Ireland and the NSPCC, as our key voluntary sector delivery partners. The VWSG held a workshop on 1 February 2011 to review the results from the second year of the Northern Ireland Victim and Witness Survey. This helped assess the impact of our current strategy ('Bridging the Gap', which was published in 2007) and identify areas where future work was required.

4. The latest statistics in relation to levels of victim satisfaction were also received in February 2011. The three year 'Justice for All' target was to achieve a statistically significant increase in the proportion of victims and witnesses satisfied with the contact they have had with the criminal justice system. Based on the baseline satisfaction level of 65.3% established in the 2008/09 Northern Ireland Victim and Witness Survey, the target to be met over a three year period was 69.5%. The 2010/11 survey reported that 71% of victims and witnesses reported that they had been satisfied. This level of satisfaction exceeded the target level of 69.5% set for the year 2011/12.

5. While this is to be welcomed, it should be noted that the Survey excludes those bereaved through murder or manslaughter, victims of sexual violence and children (since the methodology employed would be inappropriate for these victims of crime). We recognise that it is vitally important that these victims are also given a voice. We have, therefore, been seeking to supplement the findings from the Northern Ireland Victim and Witness Survey with other available evidence – including the report of a piece of research we commissioned from Queen's University Belfast and the NSPCC on the experiences of young witnesses giving evidence in court – and to garner views from victims' representatives through the consultations we carried out recently on the new Victim Code of Practice, the operation of special measures and the new "Achieving Best Evidence" guidance. We used the launch of the new Code of Practice on 21 March 2011 to seek views from the criminal justice organisations and voluntary



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sector groups attending on the draft principles developed by the Criminal Justice Board. So far, these have been favourably received.

6. A workshop was held on 3 June 2011 involving a range of voluntary sector groups, including those representing victims not included in the Northern Ireland Victim and Witness Survey, and meetings were offered to the political parties represented on the Justice Committee. We have shared a number of reports with Assembly officials (which are listed at Appendix C) and provided the Clerk to the Committee with a list of the organisations we have been engaging with to date.

7. The Committee will wish to be aware that Criminal Justice Inspection Northern Ireland (CJINI) has undertaken a thematic inspection of the treatment and care of victims and witnesses in the criminal justice system and that we expect to receive the report of this inspection shortly. The Committee will also wish to note the forthcoming Directive of the European Parliament and of the Council establishing minimum standards on the right, support and protection of victims of crime (10610/11). The new strategy will need to provide the delivery mechanism for the provisions in this Directive once it is finalised.

#### KEY ISSUES

8. A paper setting out the key themes that have been emerging in the course of our work and our initial thoughts on the desired outcomes from the new strategy is attached at Appendix D. In summary, the principal feedback we have received through our discussions with key stakeholders and from reviewing the research reports is:

- that we need to communicate better with victims and witnesses, both in terms of the information we provide and how we provide it;



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- that victims and witnesses need to be better supported for the duration of their engagement with the criminal justice system;
- the importance of early identification of individual needs and better targeting of support to those who need it most;
- that victims should be given the opportunity to participate constructively during criminal proceedings and to make the criminal justice system aware of the effect the crime has had on them; and
- that further work needs to be done to improve the public's understanding of the criminal justice system, and the system's understanding of what victims and witnesses need.

9. We regard the Committee's inquiry as a good opportunity to test whether these are the correct themes, and whether the proposed outcomes linked to each of these draft themes (set out in Appendix D) are the right response to the challenge of providing a more positive experience for those victims and witnesses who engage with the criminal justice system.

#### NEXT STEPS

10. We welcome the Committee's decision to undertake its inquiry and are committed to ensuring that it informs the development of the Department's new strategy. We look forward to receiving the Committee's report by the end of February 2012, after which we will study its findings and produce a draft consultation paper. We would intend to share the proposed paper with the Committee in draft ahead of launching a public consultation.

11. In the interim, we are continuing to implement the actions set out in the Victim and Witness Annual Action Plan 2011/12 (published on 17 June 2011), working collaboratively with our voluntary and justice sector delivery partners represented on



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the Victim and Witness Steering Group, and we will ensure we keep the Committee informed of key developments in this existing programme of work.

*Barbara McAtamney*

**BARBARA McATAMNEY  
DALO**

**ENC**





**Appendix A**

**ORIGINAL IMPLEMENTATION PLAN FOR THE DEVELOPMENT OF A NEW VICTIM AND WITNESS STRATEGY**

<p>Phase 1 Stock-take Jan 2011 – Apr 2011</p>	<p>This will involve a stock-take of where we are now. It will include assessing the impact of Bridging the Gap, reviewing the results of the Northern Ireland Victim and Witness Survey, considering the opportunities presented by the publication of the new PSNI standards and also taking account of recommendations arising from the Criminal Justice Inspection Northern Ireland thematic inspection of the treatment and care of victims and witnesses in the criminal justice system. It would also be helpful to have early engagement with victims' representatives to test the overarching aim and principles developed at the Board away day.</p>
<p>Phase 2 Where we want to go May 2011 – Jun 2011</p>	<p>To produce a new strategy it will be necessary to consider where to we want to go. In doing this the Victim and Witness Steering Group (VWSG) will develop an evidence base, including the Queen's University/NSPCC Young Witness research and examples of good practice in other jurisdictions. It will also analyse the process maps for the criminal justice bodies and hold a number of focus group meetings with voluntary sector groups representing victims and a range of organisations representing the section 75 equality categories. The purpose of this approach is to ensure that the strategy is being developed in the right direction. It will also be necessary to look at where the strategy will sit in relation to other strategies such as the strategies for tackling sexual violence and abuse and for addressing domestic violence and abuse.</p>
<p>Phase 3 How will we get there July 2011 – Sep 2011</p>	<p>To ensure the strategy is achievable the VWSG will need to be mindful of resource implications but also the opportunity that the Victims of Crime Fund will present. Each proposed action will be subjected to critical review to ensure that any resource implications can be met from within future budgets.</p>

Phase 4 Draft strategy approved Sep 2011	A draft strategy will be produced for approval by the Criminal Justice Board and the Minister.
Phase 5 Consultation Oct 2011 – Dec 2011	Launch a 12 week consultation of the draft strategy.
Phase 6 Analyses of responses Jan 2012 – Mar 2012	Analyse responses and make any necessary amendments to the strategy.
Phase 7 Strategy Launch Apr 2012	Launch of the new victim and witness strategy.

**Phases 1 & 2 of this work have been completed, with the remaining phases put on hold until the Committee has concluded its inquiry.**

## Appendix B

### CRIMINAL JUSTICE BOARD PRINCIPLES

Proportionate	Most attention should be given to those victims with the greatest need e.g. victims of the most serious crimes.
Continuity of Service	The CJ system will collectively take responsibility for the service provided to victims. It should be perceived as continuous/seamless rather than episodic.
Consistent Standards	Service should be under-pinned by standards which should relate to proportionality e.g. could be three levels of standards with the lowest applying to all victims and the highest to those in most need. Standards could link to three key elements e.g. Detection, Prosecution and Court Disposal.
Transparency	Victims should know the standards which they can expect.
Courteous/Personal	Victims should be offered choice in how they receive information. Agreed service standards should be informed by victims needs. All engaged in service to customers should be courteous and sensitive.
Efficient	This links directly to the delay agenda. Technology should be exploited as far as possible e.g. on-line case tracking. Duplication should be removed and it should be easier for victims to "opt out" at particular stages if they so wish.

## Appendix C

### PUBLICATIONS PROVIDED

Performance of the Criminal Justice System from a Victim and Witness Perspective: Detailed Breakdown of Findings from the 2010/11 Northern Ireland Victim and Witness Survey (Northern Ireland Statistics & Research Agency)

Raising the Bar (Advocacy Training Council)

Young Witnesses in Criminal Proceedings (NSPCC/Nuffield)

The Experiences of Young Witnesses in Criminal Proceedings in Northern Ireland (Queen's University Belfast/NSPCC NI)

Learning Disability Research Report (NI Policing Board)

Left in the Dark (Victim Support, England and Wales)

Hidden in Plain Sight (Equality and Human Rights Commission)

Voice, neutrality and respect: Use of Victim Support services, procedural fairness and confidence in the criminal justice system (Criminology and Criminal Justice)

## Appendix D

### **EMERGING THEMES AND DESIRED OUTCOMES**

#### **1. Communicating better with victims and witnesses**

##### ***Feedback received:***

- An absence of correct and timely information, coupled with an often limited knowledge of the justice process, can cause victims a lot of unnecessary anxiety and worry.
- In some cases the crime goes unreported because the victim does not believe engagement with the police and other criminal justice agencies will be a positive experience.
- Satisfaction in the system is influenced considerably by how victims have or perceive they have been treated.
- Without the cooperation of victims and witnesses in the criminal justice process we lessen the chance of securing convictions and therefore lessen the chance that justice is done, and seen to be done, for the victim.

##### ***Desired Outcomes:***

- Victims and witnesses will know what to expect when they contact the justice system.
- Victims and witnesses will be better informed about the progress and outcome of their case.
- Victims and witnesses will have easier access to information and help through a central contact.
- Victims and witnesses will have their needs assessed at an early stage and throughout the process.

## **2. Providing additional support for victims and witnesses who need it**

### ***Feedback received:***

- Victims and witnesses of crime, including families bereaved through murder and manslaughter, need access to a range of support services that provide emotional support as well as practical assistance.
- Some criminal proceedings, particularly for the more serious crimes, can often last years so it is important that support mechanisms are in place to help victims and witnesses for the duration of their engagement with the criminal justice system.
- The support offered to victims and witnesses should be suited to their individual needs in-so-far as is possible.
- Crime can affect different people in different ways.
- It is important that an early assessment of need is carried out so that specific needs can be identified and additional support can be directed to those most vulnerable.
- Where possible, support should be available from the point when a victim comes forward to the conclusion of the case.
- When support is needed after the conclusion of the case the victim should be signposted to the services available.

### ***Desired Outcomes:***

- Criminal justice organisations will be aware of the individual needs of a victim or witness who has engaged with the system.
- Victims and witnesses who need specialised/additional help will receive it.
- Victims and witnesses will feel better supported when they engage with the criminal justice system.
- Victims will be able to give better evidence in court.
- Victims and witnesses will feel more confident in reporting crime.



### **3. Participating in proceedings**

#### ***Feedback received:***

- Victims and witnesses should feel that they have had the opportunity to participate constructively and openly during criminal proceedings relating to their experience.
- In line with the proposed EU Directive ("A proposal document for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime (10610/11)") victims should have the right to be heard during criminal proceedings.
- Affording victims and witnesses the opportunity to make their views known and to contribute to the decision making process is important to victims and witnesses, who often feel their voice is unheard.

#### ***Desired Outcomes:***

- Victims can tell the court exactly how the crime has impacted on them personally.
- Victims feel that their views have been heard.
- The criminal justice system responds appropriately to the voice of the victim.

#### **4. Improving public understanding of the criminal justice system**

##### ***Feedback received:***

- Despite the work that has been done to date to improve the public's understanding of the criminal justice system, confusion and lack of understanding of the system remains and more still needs to be done.
- There should be less reliance on publications and more proactive outreach, especially to young people.
- On-line "walkthroughs" could be further developed.
- Guidance documents should be kept up to date.
- The criminal justice system should recognise the impact that delay has on victims and witnesses and their concerns should be responded to through the programme of work to speed up justice.
- The criminal justice system also needs to improve its understanding of what victims and witnesses really need.

##### ***Desired Outcomes:***

- Improved understanding by victims and witnesses of their role in the criminal justice system.
- Improved understanding on the part of the criminal justice system regarding what victims and witnesses need.
- Less unreported crime because people are more willing to come forward.
- A reduced perception that the criminal justice system favours the offender.
- Appropriate linkages made with the work on speeding up justice.

FROM THE OFFICE OF THE JUSTICE MINISTER



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November 2011

Dear Christine,

**COMMITTEE INQUIRY INTO THE EXPERIENCES OF VICTIMS AND WITNESSES OF THE CRIMINAL JUSTICE SYSTEM**

Thank you for your letter of 11 November which asked for a written response to a number of questions that Members did not have the opportunity to cover during the oral briefing by officials on 10 November and an update on progress in relation to the Victim and Witness Annual Action Plan 2011-12.



FROM THE OFFICE OF THE JUSTICE MINISTER



I hope the attached note and Annual Action Plan progress report are helpful and if there is any further information we can provide, which Members feel might assist the Committee, just let me know.

Yours sincerely,

P.P. *Jane Holmes*

**BARBARA MCATAMNEY  
DALO**

**[Enc]**



## Appendix 1

**Q1. In Appendix D of the papers provided to the Committee officials highlighted that in some cases the crime goes unreported because the victim does not believe engagement with the police and other criminal justice agencies will be a positive experience. Is there evidence to suggest the extent of unreported crime and have any actions been identified to address this issue?**

Appendix D included summaries of feedback received from those we have spoken with in the course of our work to develop a new strategy.

The Northern Ireland Crime Survey 2009/10 reported that, of those asked who had been a victim of a crime, 50% did not report it. The most common reason cited by 76% of victims was that the crime was 'too trivial/no loss/police would not/could not do anything'. Other reasons included, 'inconvenient to report' (17%) and 'private matter/dealt with ourselves' (16%). The least common responses were, 'dislike or fear of police/previous bad experience of the police or courts' (5%) and 'reported to other authorities' (4%).

Although the research gives a different picture from the feedback received from victims' representatives, we still think it is important that efforts should be made to enhance public confidence in order to encourage people to come forward to report crime.

The Community Safety Strategy includes a strategic outcome of "confident communities, which feel safe and have confidence in the agencies which serve them". The Strategy will look at proactive ways of encouraging greater reporting of crime, including those crime types which are recognised as being under-reported, including hate crime, and to engage with communities who have been unwilling or unable, for various reasons, to approach the authorities to report crime. Engagement is planned with local communities by working collaboratively at a local and regional level, through established formal and informal networks (such as the forthcoming Policing and Community Safety Partnerships, Neighbourhood Watch and other community

watch schemes, and local community safety wardens) in order to improve relations between the criminal justice organisations and the community and ultimately improve confidence in the criminal justice system.

One other way in which we can encourage more people to come forward is by demonstrating that those who do will be treated with sensitivity and respect.

With regard to domestic and sexual violence (see Q6 below), since the launch of the strategies in 2005 and 2008 respectively much has been done through media campaigns to raise awareness of these issues and to encourage victims to break their silence. If the person feels in immediate danger they are advised to ring the Police Service but help and support is also available by contacting the 24 hour freephone Domestic Violence Helpline or Lifeline, which is also a 24 hour freephone for victims of sexual violence or abuse.

**Q2. Has a decision been taken to discontinue the victims and witnesses survey as part of the Department's savings plans and if so, how will levels of victim satisfaction/dissatisfaction be measured in the future?**

The Northern Ireland Victim and Witness Survey (NIVAWS) was commissioned with Ipsos MORI for a three year contract period which ends in 2012, when the contract naturally expires. A decision to discontinue NIVAWS has not yet been formally taken and future research needs will be considered by the Department's Research Committee when it meets in late December. The Victim and Witness Steering Group will then consider the best way forward at its meeting in January. This may involve a new survey similar to NIVAWS or some targeted research but could also involve obtaining victim feedback from a series of Focus Groups targeted at victims of specific crime types that are not suitable for surveys due to their sensitivity.



**Q3. Have you identified any alternative approaches and models of good practice in other jurisdictions that Northern Ireland can learn from?**

Yes. We have been looking, in particular, at what is in place for the Republic of Ireland, Scotland and England & Wales. Our involvement in the development of the new EU Directive on Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime has also given us an insight into the current position in other European countries.

For instance, we were briefed by colleagues in the Republic of Ireland on the work they had undertaken to develop their Victims Charter, and we are continuing to compare experiences in relation to the implementation of the Charter and our own Victims Code of Practice.

We are also developing a model for the introduction of an Intermediaries service, which has been informed by positive experience in England and Wales, and we are currently developing a model for Witness Care Units, which will also take on board lessons learned from experiences in England and Wales.

The forthcoming thematic inspection report (on the care and treatment of victims and witnesses in the criminal justice system) by Criminal Justice Inspection Northern Ireland (CJINI) will also be informed by experience elsewhere.

**Q4. What progress, if any, has been made to develop a model for Witness Care Units?**

In anticipation of the CJINI report, the PPS and PSNI have jointly visited a Witness Care Unit in England and Wales to identify best practice. PPS and PSNI are at present working together to review their current practices within their organisations in regard to communicating with victims and witnesses to

identify options for a Northern Ireland Witness Care Unit Model that would ensure appropriate levels of communication and support are provided.

**Q5. What specific actions can be introduced to ensure the criminal justice system is aware of the effect a crime has on a victim?**

A public consultation on Victim Impact Statements and Victim Impact Reports is planned for December 2011 and a paper outlining what the consultation aims to cover was considered by the Committee at its meeting on 17 November. A Victim Impact Statement is an opportunity for the victim to explain personally the impact that the crime has had on them. Currently, statements can be provided but there is no formal system. The consultation aims to consider ways to improve practice generally, building on local experience as well as incorporating the learning from further afield.

More generally, the DOJ provides funding for Victims Support NI (VSNI) and NSPCC to provide direct support services for victims. Both organisations are represented on the Victim and Witness Steering Group and provide a voice for both adult and child victims on an ongoing basis. VSNI and the NSPCC have been sharing feedback, research, case studies and other learning to contribute to the development of policy, through the Victim and Witness Steering Group, and held a joint conference on 15 November to highlight key issues from a victim's perspective.

We also see direct feedback from victims as an important way of ensuring that the criminal justice system gains a proper understanding of the effect of crime on the victim. We worked directly with Support after Murder & Manslaughter (SAMMNI) to produce a guide to Northern Ireland's criminal justice system for bereaved family and friends following murder or manslaughter and will be looking to engage with SAMMNI and other victims of crime in the future.

**Q6. How does the Department envisage the strategy for victims and witnesses will sit with the strategies for addressing domestic violence and abuse and tackling sexual violence and abuse?**

Much work has already been done to encourage victims of domestic and sexual violence to engage with the criminal justice system through, for example, changes in legislation, changes in legal aid, and specialist police and prosecutor training. This work should, therefore, complement and be complemented by the new strategy for victims and witnesses and should not be seen as sitting in isolation. Naturally there should be obvious connections between a new victim and witness strategy and other separate strategies and initiatives that are designed to address very specific issues that in themselves will contribute directly or indirectly to improving how the justice system responds to the needs of certain victims of crime.

We intend to include a section in the new strategy setting out how it connects with other relevant strategies, including the strategy for sexual and domestic violence and abuse, and are working with colleagues from across the Department on this.

**Q7. Apart from late guilty pleas what are the key issues highlighted by victims in relation to the impact that delays in the Criminal Justice System has on them?**

As part of a wider programme of work to speed up justice, officials convened two workshops in the latter part of 2010, one of which was with representatives from victims groups and the other with SAMMNI.

The key issues highlighted as having greatest impact on victims and witnesses were:

- **Court listing** - in particular, concerns were voiced about waiting times on the day and the high number of adjournments and the use of standby trials;

- **Abuse of preliminary inquiries** - participants highlighted concerns about their perception of sharp practices among defence representatives, including using the preliminary inquiry to test the mettle of witnesses;
- **Late guilty pleas** - there was a perception that defendants play the system and string cases out as long as possible in the hope that victims or witnesses will drop out of the case.

All of these issues are being considered as part of the speeding up justice programme, on which a further update will be provided to the Committee in January 2012.

**Q8. How can a more joined-up and seamless service be delivered to victims and witnesses?**

In many respects this is the real challenge facing all who work within the justice sector to provide help and support to victims and witnesses of crime. One of the key actions in this respect is likely to be the introduction of Witness Care Units. The delivery of improved services to victims will rely heavily on the quality and effectiveness of partnership working at all levels between the criminal justice agencies, their voluntary sector delivery partners and those with an interest in supporting victims. Key to this will be the need to improve methods of communication (face-to-face, written and electronic) between agencies and with victims and witnesses. How we communicate with victims and witnesses, both in terms of the information we convey and how we convey it, has been a recurring theme throughout reports, research papers and focus groups.

Again, it is recognised that there is already evidence of excellent partnership working for victims of domestic and sexual violence. An example of this is the domestic violence Multi Agency Risk Assessment Conferences, where a broad range of Agencies come together to develop an action plan aimed at better protecting those victims at highest risk of serious harm or homicide.

Another welcome development has been the establishment of a victims' reference group to support the work of the public protection arrangements.

## Appendix 2

### VICTIM AND WITNESS ANNUAL ACTION PLAN 2011/12 PROGRESS REPORT AT 21 NOVEMBER 2012

#### 1. Improving access to information

Key Area	Lead	Support	Update
1. To explore new and available technologies to provide enhanced victim information by March 2012.	DOJ	WWSG	<p><b>On target.</b> A project to create a management information system is being developed. It will include considering the scope to provide enhanced data on the operation of special measures for vulnerable and intimidated witnesses.</p> <p>Work is also underway within the PSNI and PPS to improve the information provided directly to victims of crime.</p>
2. To finalise the revision of the PPS Victims and Witnesses Policy by December 2011.	PPS		<p><b>On hold</b> pending publication of the CJINI report on its thematic inspection of the care and treatment of victims and witnesses.</p>
3. To review NICTS Customer Standards and other sources of information for victims by December 2011.	NICTS		<p><b>On target.</b> A revised draft NICTS Victim &amp; Witness Policy has been circulated to partner agencies for comment.</p>



**2. Keeping victims and witnesses informed**

Key Area	Lead	Support	Update
1. To complete the roll out of the PSNI automated system of victim updates as expeditiously as possible.	PSNI		<b>On target.</b> Auto generated letters (through the PSNI's Niche computer system) to victims are continuing; however, this is in conjunction with ongoing work within the R4 project to update victims at 10, 30 and 70 day intervals.
2. To consider the findings from the review of the management of and support for victims and witnesses who are called to the Crown Court to give evidence, and agree the way forward and produce an action plan by December 2011.	PPS	PSNI/NICTS/VSNI/NSPCC	<b>On target.</b> A new (manual) system of referral to Witness Service has been operational in the Crown Court since June 2011.  The provision of services to witnesses in the Crown Court will be considered as part of the Witness Care Unit (WCU) project.
3. To finalise the revision of PPS victim and witness correspondence, consult with key stakeholders and implement recommendations by October 2011.	PPS	VSNI/NSPCC	<b>Largely on target.</b> All PPS letters have now been amended. Once these have been approved by PPS senior management, stakeholder consultation is planned with VSNI, NSPCC & YJA. An IT specification is to be drawn up and implemented. Full implementation is anticipated in early 2012 once all changes have been agreed.
4. To assess the feasibility of merging the Prisoner Release, Probation and Mentally Disordered Offenders' victim information schemes by March 2012.	PBNI	DOJ/PSNI/NIPS	<b>On target.</b> Initial meetings have been held between PBNI, Prison Service and the Mentally Disordered Offenders Unit, with critical issues identified and options appraisal as the next step.

<p>5. To develop a model for Witness Care Units and agree way forward by 31 March 2012.</p>	<p>PPS/PSNI</p>	<p>PSNI/PPS/NICTS/ VSNI/NSPCC</p>	<p><b>On target.</b> The PPS Senior Management Group has approved the Witness Care Unit (WCU) model in principle as the best way forward. The PPS will give formal approval through their Management Board at their meeting in mid December. A project outline will be prepared for the Management Board addressing how a workable model of a WCU can be planned and implemented in order to achieve the aims of a WCU within a Northern Ireland environment. The PPS and PSNI will then jointly produce a project plan which will include scoping, planning and implementation phases. In particular this plan will address:</p> <ul style="list-style-type: none"> <li>a. staffing;</li> <li>b. location;</li> <li>c. the necessary contractual agreements and partnership working;</li> <li>d. IT; and</li> <li>e. resources.</li> </ul>
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**3. Providing a quality service**

Key Area	Lead	Support	Update
<p>1. To publish a new strategy to ensure the ongoing strategic delivery of improved services to victims and witnesses by March 2012.</p>	<p>DOJ</p>	<p>VWSG</p>	<p><b>Some slippage.</b> As the Committee is aware, the timescale for the production of a new strategy has been put back to allow us to take account of the Justice Committee's inquiry.</p>

<p>2. To monitor the implementation of the Code of Practice for Victims of Crime, place it on a statutory footing and commence a 12-month review of its content in March 2012.</p>	DOJ	VWSG	<p><b>On target.</b> Work is ongoing to place the code on a statutory footing at the first available opportunity.</p> <p>A review of its content will commence in March 2012, and we are already aware of amendments that will be required to reflect the further development of services for victims (such as the new policing commitments).</p>
<p>3. To monitor feedback and complaints regarding the standards set out in the Code of Practice for Victims of Crime on a quarterly basis and to consider how to address themes emerging on service delivery.</p>	DOJ	VWSG	<p><b>On target.</b> A review of feedback and complaints received from the launch of the Code up to the start of September has been completed. No direct complaints against the standards contained in the Code were received, and we are considering ways of encouraging feedback.</p>
<p>4. To review feedback from the Policing Commitments and the PSNI User Satisfaction Survey during the course of the year and consider how to address any emerging victims themes.</p>	PSNI		<p><b>On target.</b> Information has been gathered from the user survey and policing commitments remains for PSNI's internal use. PSNI is due to present to the Victim and Witness Steering Group in the new year on emerging victims themes.</p>
<p>5. To continue to raise awareness with the judiciary and defence counsel of the damaging impact of inappropriate cross-examination.</p>	DOJ	VWSG	<p><b>On target.</b> This issue was included in a briefing to the Criminal Justice Issues Group and we are also proposing to cover it as part of a module we are developing for the Law Society's forthcoming Continuing Professional Development Programme.</p>

<p>6. To consider the recommendations in the Criminal Justice Inspection report following its Thematic Inspection on Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System in Northern Ireland and produce an action plan to accompany the report's publication.</p>	<p>DOJ</p>	<p>VWSG</p>	<p><b>On target.</b> The final report has now been received and is due to be published shortly. An action plan is being drawn up which will be published at the same time.</p>
<p>7. To consider the recommendations in the QUB/NSPCC report following their research on the experiences of young witnesses in criminal proceedings in Northern Ireland and agree the way forward within three months of the report's publication.</p>	<p>DOJ</p>	<p>VWSG</p>	<p><b>Completed.</b> The final report has been received and its recommendations are currently being taken forward by the relevant criminal justice organisations.</p>
<p>8. To contribute to the development of EU Directives relating to victims during the course of the year and plan for their implementation.</p>	<p>DOJ</p>	<p>EU Victims Directives subgroup/VSNI</p>	<p><b>On target.</b> The UK opted in to the Directive on 25 August. We continue to have input on the UK negotiating mandate and revisions of the Directive.</p>
<p>9. To review and revise PPS standard instructions to Counsel by November 2011 to ensure victims and witnesses needs are addressed.</p>	<p>PPS</p>		<p><b>On target.</b> This will be completed by the end of November 2011.</p>
<p>10. To provide training on the avoidance of re-victimisation to relevant PPS business areas and Panel Counsel by February 2012.</p>	<p>PPS</p>	<p>VSNI</p>	<p><b>Ahead of target.</b> Training is to be completed by December 2011.</p>

#### 4. Supporting individual needs

Key Area	Lead	Support	Update
1. To prepare for, commence and implement the vulnerable and intimidated witness provisions in the Justice Act (Northern Ireland) 2011 by December 2011.	DOJ	VIWWG	<b>On target.</b> The Vulnerable and Intimidated Witnesses Working Group (VIWWG) is preparing for the special measures provisions in the Justice Act being commenced on 1 January 2012.
2. To address the practical issues identified during the review of the operation of special measures by March 2012.	DOJ	VIWWG	<b>On target.</b> The VIWWG continues to address the practical issues identified during the special measures review with good progress being made, and a significant number of actions are being taken forward.
3. To have an implementation plan in place by September 2011 for the provision of an Intermediaries Service to help vulnerable witnesses.	DOJ	VIWWG	<b>On target.</b> A draft project plan for the establishment of the Witness Intermediaries Service was completed in September and considered by the VIWWG at its meeting on 5 October.
4. To review the Achieving Best Evidence practitioner guidance by December 2011.	DOJ	VIWWG	<b>On target.</b>
5. To evaluate the pilot to reduce waiting times for victims and witnesses while at court by March 2012.	NICTS	PPS/VSNI/NSPCC	<b>On target.</b> VSNI and NSPCC have agreed to assist in a monitoring exercise to evaluate waiting times of vulnerable witnesses giving evidence across Northern Ireland.
6. To consider the way forward for the provision of remote link facilities by December 2011.	NICTS	DOJ/PSNI/PPS/ NICTS/VSNI/ NSPCC	<b>On target.</b> NICTS are preparing a paper on the possible options for remote link facilities. Work is progressing to plan.

7. To consider the need for further actions to address the principal victim and witness concerns about court attendance by March 2012.	NICTS	PSNI/PPS/VSNI/ NSPCC	<b>On target.</b> A meeting between NICTS/PSNI/PPS and VSNI has been arranged to consider the principal victim and witness concerns.
8. To review the impact of the Youth Conference process on victims by March 2012.	YJA		<b>On target.</b> The victim survey is being carried out with each direct victim who encounters the process. A report is due to be produced in March 2012.
9. To consider the introduction of a system to refer witnesses called to the Crown Court from the PPS to the witness services by October 2011.	PPS	Witness Services Steering Group	<b>Completed</b> in June 2011.
10. To roll out the Young Witness Service into all magistrates' and youth courts by September 2011.	NSPCC	PSNI/VSNI/ NSPCC	<b>Completed.</b> The Young Witness Service is now rolled out to all magistrates' and youth courts. This action was achieved by 3 October 2011.

**5. Listening to victims and witnesses**

Key Area	Lead	Support	Update
1. To take forward work to formalise practice regarding victim impact reports and victim impact statements and publish a consultation document by December 2011.	DOJ	PSNI/PPS/NICTS/ PBNI/VSNI/ NSPCC	<b>On target.</b> The Justice Committee considered a written briefing paper on 17 November and a consultation paper is due to be published in December 2011.
2. To conduct a feasibility study to determine the applicability of the introduction of community impact assessments in the criminal justice process by June 2011.	DOJ	VWSSG	<b>Some slippage.</b> Officials advised the Committee at an oral briefing session on 10 November that a draft feasibility study had been produced in June but had been put on



<p>3. To develop guidance to explain restorative interventions to victims by November 2011.</p>	<p>PBNI</p>	<p>YJA/VSNI</p>	<p>hold in anticipation of further related developments in England &amp; Wales. The report is due to be finalised in the next few weeks.</p>
			<p><b>Completed.</b> Guidance on restorative interventions has now been developed and consideration is being given to the format in which the guidance will be publicly presented.</p>

# Criminal Justice Board Action Plan

The Criminal Justice Board has agreed the Action Plan below, which has been endorsed by the Minister of Justice, in response to the Criminal Justice Inspection (CJINI) Report “The Care and Treatment of Victims and Witnesses in the Criminal Justice System in Northern Ireland”. It consists of three key areas: strategic/key recommendations, operational recommendations and areas for improvement. The plan will be delivered through joined-up working by the relevant justice agencies and our voluntary sector delivery partners.

	<b>CJINI Strategic/Key Recommendations</b>	<b>Accepted</b>	<b>Lead</b>	<b>Action</b>
1	In terms of delay Inspectors point to the recommendations made in their report ‘Avoidable Delay’ (published May 2010) and repeat those recommendations insofar as they remain vital to improving the experiences of victims and witnesses. <b>(Paragraph 4.37)</b>	Accepted	DOJ	A programme of work to speed up the delivery of justice has been underway since February 2010 and a progress report by CJINI is due to be published shortly.
2	Inspectors recommend that case management is placed on a statutory footing with timescales, sanctions and incentives designed to deliver the most efficient and effective case progression. The DOJ should ensure the issue is included in their strategic action plans and progressed by 31 May 2012. <b>(Paragraph 4.41)</b>	For further consideration	DOJ	As part of the speeding up justice programme, we are considering whether statutory time limits (STLs) should be introduced in Northern Ireland. Although this recommendation is on a more specific issue, the idea of placing case management on a statutory footing needs to be considered alongside this wider piece of work. There are a range of complex issues which the Department of Justice will need to consider before reaching a view on the most effective way to proceed.

	<b>CJINI Strategic/Key Recommendations</b>	<b>Accepted</b>	<b>Lead</b>	<b>Action</b>
3	<p>Inspectors recommend that the current VWSG should be re-constituted and incorporate amongst its membership senior executives from each of the main criminal justice system agencies. These senior executives as core members should also be appointed as the individual agencies' 'victims champions'. Importantly, the VWSG should report directly to the Minister and the Criminal Justice Delivery Group on issues concerning victim and witness care and treatment, while at the same time keeping Criminal Justice Board advised of its work.</p> <p>Victims Champions should be responsible to and directly report to the heads of each of the main justice agencies (PSNI/PPS/NICTS/PBNI) on matters including:</p> <ul style="list-style-type: none"> <li>• Organisational performance in respect of the care and treatment of victims and witnesses;</li> <li>• The implementation (operational delivery) of policy/commitments and the Victims Code;</li> <li>• Active liaison across the criminal justice system with other partners;</li> <li>• Engagement with victims/victims groups and application of the learning from this; and</li> <li>• Representing the views of victims</li> </ul> <p><b>(Paragraph 6.20)</b></p>	Accepted in part	DOJ	<p>Membership of the current Victim and Witness Steering Group will be reviewed and victims champions will be appointed for each of the individual organisations no later than April 2012.</p> <p>However, the Victim and Witness Steering Group will continue to report to the Criminal Justice Board as not all of the relevant criminal justice organisations are represented on the Criminal Justice Delivery Group.</p>

	<b>CJINI Strategic/Key Recommendations</b>	<b>Accepted</b>	<b>Lead</b>	<b>Action</b>
4	<p>Inspectors recommend the reconstituted VWSG oversee the establishment of WCU's in Northern Ireland but led by PPS and using the existing CLTs as the core basis for delivery. Inspectors consider that an amalgam of PPS CLTs, elements of the PSNI R4 model (in terms of victim contact and updating), NICTS CPOs and VSNi can provide a vehicle to achieve a WCU ('one stop shop') facility which will significantly enhance the experience of victims and witnesses. <b>(Paragraph 6.52)</b></p>	Accepted in principle	PPS/ PSNI	<p>A project to oversee the establishment of Witness Care Units has commenced and is being taken forward jointly by the PPS and the PSNI.</p> <p>In addition, present working practices will be reviewed in regard to communicating with victims and witnesses to ensure appropriate levels of support and contact is made from initial incident reporting to, and beyond, court outcomes.</p>
5	<p>Inspectors recommend the amalgamation of all post conviction victim information schemes under the supervision of the PBNI. <b>(Paragraph 5.65)</b></p>	Accepted	PBNI/ NIPS/ DOJ	<p>A project to review the roles of the current post conviction schemes has commenced. PBNI, NIPS and the DOJ will work closely to ensure that the agreed final scheme will be built on best practice and victim feedback.</p>
6	<p>In order to address the needs of victims who:</p> <ul style="list-style-type: none"> <li>• do not engage the criminal justice system;</li> <li>• have difficulty accessing criminal justice services;</li> <li>• need help beyond the period when the criminal justice process has ended; or</li> <li>• who need specialist assistance for reasons of vulnerability</li> </ul> <p>the DOJ should further develop its advocacy services. <b>(Paragraph 5.13)</b></p>	Accepted	DOJ	<p>The development of an Advocacy Service will be included in the new victim and witness strategy.</p>

	<b>CJINI Operational Recommendations</b>	<b>Accepted</b>	<b>Lead</b>	<b>Action</b>
1	Inspectors recommend that victim's letters should be revised by PSNI to take account of the matters raised in this report at paragraphs 2.29 and 2.30. <b>(Paragraph 2.30)</b>	Accepted	PSNI	Work has commenced on assessment and revision of victim letters.
2	On the matter of post foundation training Inspectors would recommend PSNI examine how they can deliver appropriate victim focussed refresher training to officers who are routinely engaged in public response (whether by way of call management or physical response) at key stages. <b>(Paragraph 2.47)</b>	Accepted	PSNI	Evaluation of this recommendation will be undertaken by PSNI Criminal Justice Department. Additional 'formalised' training needs will be reviewed for those in relevant roles performed by officers engaged in day to day interface with the community. In conjunction, potential IT requirements/adjustments will be considered.
3	Inspectors recommend that the PPS review of letters take account of the findings and comments at paragraph 3.12 and paragraphs 3.14 - 3.18. <b>(Paragraph 3.14)</b>	Accepted	PPS	A phased review of letters has commenced, with the following milestones: Phase 1 (revision of letters) completed 28 September 2011. Phase 2 (review of summons documentation) completed October 2011. Phase 3 (consultation with key external stakeholders, and subsequent approval of PPS senior management) end December 2011. Phase 4 (IT specification) end January 2012 Phase 5 (review of leaflets) end January 2012
4	It is [therefore] recommended that the CLTs become a WCU and that the role is extended to the Crown Courts. <b>(Paragraph 3.25)</b> NB* This recommendation is linked to the recommendation regarding the establishment of WCUs (see paragraph 6.52)	Accepted	PPS	As per <b>strategic/key recommendation 4</b> . This will be included in the joint PPS/PSNI Project Plan.

	<b>CJINI Operational Recommendations</b>	<b>Accepted</b>	<b>Lead</b>	<b>Action</b>
5	Inspectors recommend that PPS incorporate dedicated training on the care and treatment of victims and witnesses as part of its system of continuous professional development. <b>(Paragraph 3.31)</b>	Accepted	PPS	PPS produce a training plan each year to address changes in the law, policy and practice. All courses are accredited under Law Society and Bar Council CPD schemes. The care and treatment of victims and witnesses is already included in the training plan. Barristers and solicitors are already subject to mandatory Continuing Professional Development.
6	The Criminal Justice Board should implement technical solutions across the criminal justice system to update victims and witnesses about developments in their case including whether they need to attend court, the date, time and venue where the offence will be listed, and the eventual outcome of the hearing. This should be regarded as a 'self-service' facility in which victims and witnesses, using a unique reference can access information about their case from soon after first report until its disposal. Such a service should also 'signpost' support services, where appropriate. <b>(Paragraph 3.40)</b>	Accepted	PSNI/ PPS	<p>The PSNI has during the past year instigated a programme of change designed to improve the management of 'Victim Updates'. This will improve the consistency and efficiency of the victim update process and includes the implementation of computer technology whereby victim updates are 'flagged' to officers at the following intervals: 10 days, 30 days and 75 days.</p> <p>Compliance with the victim update process is robustly monitored through the IT system which automatically highlights outstanding updates.</p> <p>PPS are developing a computerised user interface to provide case progression information regarding cases prosecuted by PPS. Rollout anticipated by April 2012.</p> <p>As per <b>strategic/key recommendation 4</b>. Work on updating victims and witnesses will also be included in the joint PPS/PSNI Project Plan.</p>



	<b>CJINI Operational Recommendations</b>	<b>Accepted</b>	<b>Lead</b>	<b>Action</b>
7	The DOJ should consider how it can measure the costs and issues arising in 'cracked' and 'ineffective' trials highlighting where costs can be saved and outcomes for victims and witnesses improved. <b>(Paragraph 4.36)</b>	Accepted	DOJ	An exercise to measure the number of cracked and ineffective trials and the associated costs will be undertaken by the Case Management Group of the speeding up justice programme. As part of the programme, we are also developing options for measures to increase the proportion of guilty pleas entered at an earlier stage, with a view to reducing waste in the system and freeing up more court time, reducing delay in criminal cases, and, most importantly, reducing the burden on victims and witnesses.
8	Systems must be agreed and put in place (supported by PSNI, PPS and NICTS) to support operational Police Officers and ultimately victims in providing timely and accurate information with regard to bail, starting with the most serious cases. However, in view of the Law Commission expected report Inspectors make this a conditional recommendation. <b>(Paragraph 4.60)</b>	Accepted in principle	PSNI/ PPS/ NICTS	This has been accepted pending the outcome of the review by the Law Commission.
9	Inspectors recommend that the Criminal Justice Board introduce guidance on a Victim Impact Scheme in Northern Ireland and that the lessons learned from implementation of the Victim Personal Statement in England & Wales are considered in doing so. Once agreed, the guidance should be available to the public. <b>(Paragraph 4.77)</b>	Accepted	DOJ	An action has been included in the Victim and Witness Action Plan for 2011/12, "to take forward work to formalise practice regarding victim impact reports and victim impact statements and publish a consultation document by December 2011".  A scoping review on Victim Impact Statements has been completed and was considered by the Victim and Witness Steering Group in November and the public consultation is on target to be launched in December 2011.
10	Inspectors recommend that DOJ works with NICTS and VSNI to develop a clear system of voluntary referrals and thus support for victims/victims families and other witnesses who attend Coroner's Courts. <b>(Paragraph 5.9)</b>	Accepted	DOJ/ VSNI	DOJ will work with the Coroners Court to identify the level of support needed by victims and their families and put in place an appropriate system to meet this need.

	<b>CJINI Operational Recommendations</b>	<b>Accepted</b>	<b>Lead</b>	<b>Action</b>
1.1	<p>Inspectors recommend that the broad demarcations of lead responsibility for victim and witness care in the criminal justice system are firmly established and followed as follows:</p> <ul style="list-style-type: none"> <li>• Report to decision to prosecute – PSNI</li> <li>• Decision to prosecute to disposal - PPS</li> </ul> <p><b>(Paragraph 6.36)</b></p>	Accepted in part	PPS/ PSNI	<p>It is considered that the proposed demarcation is unduly simplistic and does not take sufficient account of the involvement of PPS in victim and witness care prior to the decision to prosecute, nor does it reflect the degree of involvement of PSNI after the decision to prosecute has been taken.</p> <p>However, in order to promote understanding of where responsibilities lie, discussions will take place between the PPS and the PSNI with a view to drawing up a Service Level Agreement setting out where responsibility lies at different stages of the criminal justice process.</p>
1.2	<p>In respect of the gap between policy and practice Inspectors consider that individual agency victims champions (when appointed) should examine their own regimes in terms of:</p> <ul style="list-style-type: none"> <li>• a focus on outcomes for victims and witnesses;</li> <li>• the importance and priority given to victims and witnesses issues;</li> <li>• the performance indicators which underpin points one and two above;</li> <li>• the quality assurance mechanisms in place to support monitoring/measurement, supervision; and</li> <li>• monitoring of the care and treatment of victims and witnesses which supports the fourth point above.</li> </ul> <p><b>(Paragraph 6.42)</b> NB* This is an operational matter linked into the recommendation made at paragraph 6.2.</p>	Accepted	DOJ	<p>This will be taken forward in conjunction with <b>strategic/key recommendation 3</b>.</p>

	<b>CJINI Areas for Improvement</b>	<b>Accepted</b>	<b>Lead</b>	<b>Action</b>
1	Police Call Management Units and staff who are responsible for the dispatch of Officers to calls should consider appropriate system checks to ensure responding officers are aware of previous reports/incidents, as well as the potential presence of firearms at the address. <b>(Paragraph 2.12)</b>	Accepted	PSNI	Measures are already in place to alert attending police to the presence of a firearm at an address. An IT based solution to alert attending police to previous incidents/ repeat victims is currently being developed.
2	Inspectors recommend that together with VSNI and NSPCC, PSNI and PPS re-visit referrals to the witness schemes to ensure that gaps can be narrowed and that the service to victims is as seamless as possible. <b>(Paragraph 2.22)</b>	Accepted	PSNI/ PPS/ VSNI/ NSPCC	As per <b>strategic/key recommendation 4</b> . This will form part of the joint PPS/PSNI Project Plan for Witness Care Units.  PPS and PSNI have already engaged with partners on this issue with the view to providing a structured approach to victim referrals for Crown Court.  PPS also operate an electronic system of referrals in the Magistrates' Court and Youth Court, to the Witness Service and Young Witness Service.
3	Inspectors recommend PSNI reminds all Officers of the need to ensure appropriate advice is provided to all witnesses regarding the provision of a formal written statement. <b>(Paragraph 2.33)</b>	Accepted	PSNI	This observation will be assessed and any potential requirement for guidance / instruction to PSNI Officers considered in conjunction with ongoing work concerned with Witness 'Special measures'.
4	Inspectors recommend PSNI ensures maximum use is made of initial needs assessments as part of victims and witness care. <b>(Paragraph 2.36)</b>	Accepted	PSNI	This will be considered as indicated at <b>area for improvement 3</b> .

<p>5</p>	<p>Inspectors recommend the PSNI ensures that the cultures embedded in the Police College and in student officers are transferred from the training environment to the front line and maintained over time. This can be achieved by:</p> <ul style="list-style-type: none"> <li>• supervision by experienced Officers at Sergeant rank and above;</li> <li>• the maintenance of a culture of customer care/ customer focus and interpersonal skills;</li> <li>• delivery of mechanisms which assist the process of victim and witness care and further embed the culture of customer focus; and</li> <li>• delivery of further training to front line officers at key points in their service [as recommended at Paragraph 2.478]. <b>(Paragraph 2.48)</b></li> </ul>	<p>Accepted</p>	<p>PSNI</p>	<p>Assessment of his recommendation will be undertaken by PSNI Criminal Justice Department. Additional 'formalised' training needs will be reviewed for those in relevant roles performed by officers engaged in expected interface with the community. In conjunction, potential IT requirements/adjustments to be considered</p>
<p>6</p>	<p>Inspectors would recommend that there is a central oversight and evaluation by Criminal Justice Directorate of policing initiatives and, where appropriate, corporate application of the learning. This could take the form of a good practice web-site where others could learn from the positive and negative aspects of such schemes. <b>(Paragraph 2.54)</b></p>	<p>Accepted</p>	<p>PSNI</p>	<p>The mechanism by which innovative practices could be captured will be considered by the PSNI Criminal Justice Department with a view to maintaining both oversight / assessment and sharing best practice.</p>
<p>7</p>	<p>Prosecuting Counsel are not Access NI checked. This is a matter which Inspectors recommend should be addressed by PPS in employing Counsel for sensitive cases and those involving children. <b>(Paragraph 3.32)</b></p>	<p>Not accepted</p>	<p>PPS</p>	<p>Having regard to the nature of duties which Counsel perform it is considered that, in circumstances where the Safeguarding Vulnerable Groups (NI) Order 2007 does not include provision for prosecuting Counsel to be checked by AccessNI, sufficient protection is afforded through the selection process for Panel Counsel which includes a requirement to disclose previous convictions and disciplinary proceedings.</p>

8	Specifically for NICTS, Inspectors recommend that the various responsibilities and how they will be delivered should be added to its victims and witnesses policy in its next revision. <b>(Paragraph 4.7)</b>	Accepted	NICTS	NICTS will undertake a review of their Victim & Witness Policy ensuring that the services available are attributed to the agencies responsible. To be completed by March 2012.
9	Inspectors recommend that all PSNI Officers likely to be engaged in dealing directly with crime victims are given awareness training in the application of special measures. <b>(Paragraph 4.64)</b>	Accepted	PSNI	PSNI is currently working with partners to ensure attending officers are suitably equipped and confident in the management of any special measure witness requirements. This work will include enhancements to current Niche application and data sharing mechanisms with partner criminal justice organisations.
10	Inspectors recommend that PSNI and PPS work together to provide a clear and auditable system of information to support the best possible care and treatment of victims and witnesses. Specifically this could include matters such as vulnerabilities; special needs; fears or concerns; special measures; the 'victim contract' and updates (as discussed in Chapter 2); and links to witness assessments and WCUs. <b>(Paragraph 4.65)</b>	Accepted	PSNI/ PPS	Formal working arrangements have been put in place between both services to further this specific recommendation.  PPS and PSNI are conducting a joint programme of training in respect of special measures to operational staff throughout Northern Ireland.
11	Inspectors would urge that NICTS conduct a review of the holding and availability of [such] technical equipment across its estate with a view to achieving a balanced approach bearing in mind financial restrictions and the needs of stakeholders including victims and witnesses. <b>(Paragraph 4.66)</b>	Accepted	NICTS	NICTS are in the process of undertaking a refresh of all technical equipment across the Court Estate including audio-visual equipment used to deliver special measures.  NICTS will also evaluate the holding and availability of existing audio-visual equipment when reviewing the way forward for the provision of remote-link facilities. To be completed by December 2011.
12	Inspectors would encourage PPS to quality assure practice with regard to communication with victims surrounding appeals during the following six months. <b>(Paragraph 4.70)</b>	Accepted	PPS	This is part of an ongoing programme of work.

FROM THE OFFICE OF THE JUSTICE MINISTER



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Our ref: SUB/14/2012

Ms Christine Darrah  
Committee Clerk  
Committee for Justice  
Northern Ireland Assembly  
Parliament Buildings  
Stormont  
BELFAST BT4 3XX

12 January 2012

Dear Christine,

**JUSTICE COMMITTEE INQUIRY INTO SERVICES FOR VICTIMS AND WITNESSES OF CRIME**

**Summary**

**Business Areas:** Access to Justice, Safer Communities and Justice Delivery.

**Issue:** Provision of evidence to assist the Committee's inquiry into services for victims and witnesses of crime.

**Restrictions:** None.

**Action Required:** To note the Department's initial response to the draft themes the Committee has developed, and the further information provided on possible actions we have been considering for inclusion in the new strategy for victims and witnesses of crime.





FROM THE OFFICE OF THE JUSTICE MINISTER



**Officials Attending:**

- Maura Campbell, Deputy Director, Criminal Justice Development;
- Declan McGeown, Deputy Director, Community Safety Unit;
- Peter Luney, Head of Court Operations, Northern Ireland Courts & Tribunals Service;
- Marcella McKnight, Chief Executive, Compensation Agency.

**BACKGROUND**

1. Department of Justice officials attended the Committee's meeting on 10 November to brief the Committee on the work the Department had undertaken to develop a new strategy for victims and witnesses of crime, including the emerging themes and our initial thoughts on the types of outcomes we should be aiming to achieve. The Clerk to the Committee subsequently wrote to us with some further questions from Members, and a response was issued on 25 November.

2. Since then, the Committee has met with a range of organisations and received a number of written submissions. Officials have observed the public proceedings and noted that the Committee has been considering evidence under a number of themes, which draw on and supplement the draft themes the Department presented in November.

**KEY ISSUES**

3. At this stage, there are two key issues for the Department, as follows.



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### Scope of the new strategy

4. We will need to consider whether the intended **scope** of the new strategy for victims and witness of crime should be extended, and/or whether some of the themes identified thus far by the Committee should be addressed through other strands of work. For example, some of the issues the Committee is considering are already being progressed through the new Community Safety Strategy. By way of illustration, **Appendix A** sets out how each of these strategies maps across to the “victim journey” through the criminal justice process. A more detailed victim pathway (taken from the Code of Practice for Victims of Crime, published on 21 March 2011, and which currently represents the main focus of our plans for the new victim and witness strategy), is also attached at **Appendix B**, for the Committee’s information.

5. We will, further, need to consider whether the themes the Committee has been considering relating to delays in criminal case processing and compensation for victims should be subsumed within a wider victim and witness strategy or taken forward as separate work streams. We can see some merits in taking a more holistic approach; equally, though, it is evident that each of these themes represents a significant piece of work.

6. On delay, the Committee will be aware that a bespoke programme of work to speed up justice is being personally overseen by the Minister. An update on the programme is being provided for the Committee’s meeting on 12 January. On compensation, the Department is minded to undertake a review of how the Compensation Agency achieves its objectives, and the Committee’s recommendations on compensation-related issues might be better addressed through this piece of work. The Minister plans to write to the Committee in the near future on the proposed terms of reference for this review.



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### **Specific Actions**

7. We also need to consider what **actions** the new strategy for victims and witnesses might include. When officials appeared in November, they reported that specific actions were not being provided at that time so as not to pre-empt the content of the report by Criminal Justice Inspection Northern Ireland (CJINI) on its thematic inspection of the treatment and care of victims and witnesses in the criminal justice system. That report was published on 7 December and the Committee was briefed by Dr Maguire on its conclusions on 8 December. Now that the CJINI report has been published, the Committee might find it useful to have sight of the types of actions the Department has been considering, and these are listed in **Appendix C**. This list is primarily based around the emerging themes the Department reported on in November.

8. The Department will, of course, defer making any final decisions on what actions should be proposed in the draft strategy, for the purposes of public consultation, until such times as the Committee's report has been received and properly considered.

### **NEXT STEPS**

9. We continue to welcome the Committee's decision to undertake its inquiry and, on the basis of the work undertaken to date, we are confident that it will make a significant contribution to the development of the Department's new strategy for victims and witnesses of crime and, indeed, help to shape the Department's approach to other areas of work with strong links to the victim agenda.

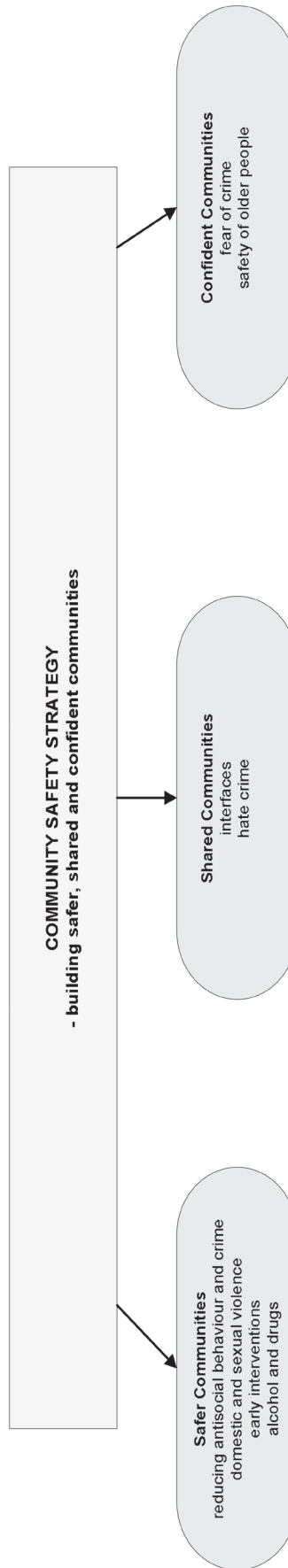
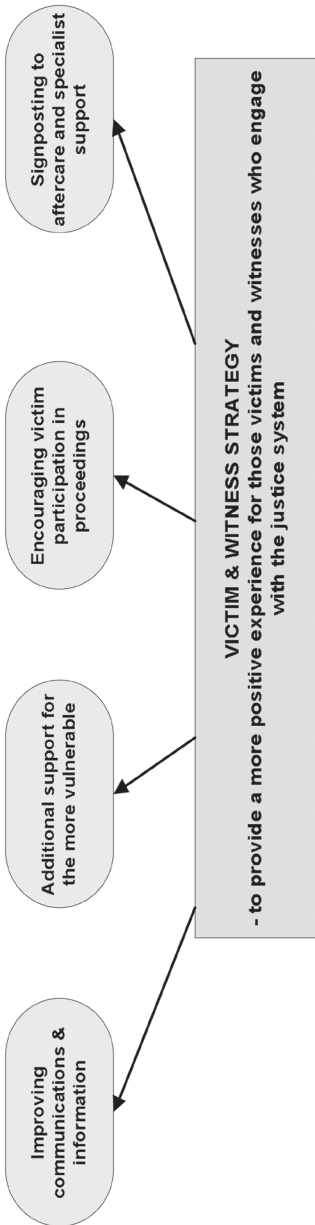
A handwritten signature in black ink, appearing to read "B. McAtamney".

**BARBARA McATAMNEY  
DALO**

**Enc.**

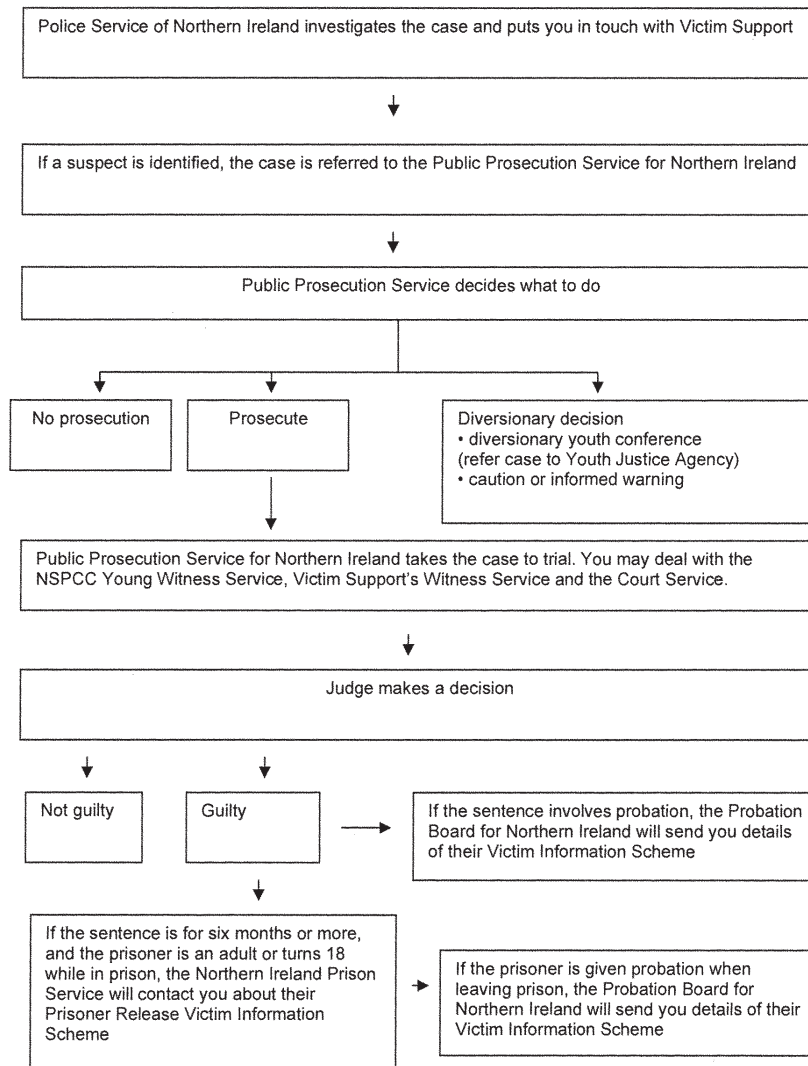


**APPENDIX A**



## Appendix B

### The victim's path through the criminal justice system



## Appendix C

### **ACTIONS UNDER CONSIDERATION FOR INCLUSION IN THE DRAFT STRATEGY FOR VICTIMS & WITNESSES OF CRIME**

(\* denotes an action which corresponds with a recommendation from the Criminal Justice Inspection Northern Ireland thematic inspection report on the care and treatment of victims and witnesses)

- Review the Code of Practice for victims of crime (published March 2010) and place it on a statutory footing
- Monitor performance against the standards in the Code of Practice
- Give effect to the forthcoming EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- Establish Witness Care Units\*
- Appoint victims champions in criminal justice organisations\*
- Streamline the victim information schemes provided by the Northern Ireland Prison Service, the Probation Board for Northern Ireland and the Mentally Disordered Offenders Unit (DOJ)\*
- Explore opportunities to make better use of available technology to update victims and witnesses and gather management information
- Improve the timeliness of the formal assessment of victim and witness needs
- Develop advocacy services for victims\*
- Improve services for bereaved families
- Introduce a Witness Intermediary Service and develop proposals for vulnerable defendants
- Further develop the "Achieving Best Evidence" guidance for practitioners
- Improve the operation of special measures<sup>1</sup>
- Continue to raise awareness of the damaging impact of inappropriate cross-examination

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<sup>1</sup> The Department has invited Criminal Justice Inspection Northern Ireland to undertake a review of the current operation of special measures with a view to identifying further areas for improvement. The fieldwork for this review has been completed and a report is expected shortly.



- Consider the development of guidance for cross-examining vulnerable witnesses
- Explore the underlying reasons for victim and witness concerns about attending court and develop further measures to address these
- Improve the referral system to the Coroner's Court\*
- Develop a new Victim Impact Scheme which would:
  - formalise the use of victim impact statements and reports\*
  - provide for the use of community impact statements\*
- Undertake outreach events (including in schools) to improve public awareness of the criminal justice process
- Undertake further research on the needs of victims and witnesses not covered by the Northern Ireland Victim & Witness Survey
- Review the online victim and witness walkthroughs
- Develop and update existing guidance documents for victims and witnesses, and consider ways of making these more accessible for children and persons with disabilities

FROM THE OFFICE OF THE JUSTICE MINISTER



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Our ref: SUB/29/2012

Ms Christine Darrah  
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12 January 2012

Dear Christine,

**BRIEFING BY THE CHIEF INSPECTOR, DR MAGUIRE, TO THE JUSTICE COMMITTEE ON THE CRIMINAL JUSTICE INSPECTION REPORT ON THE CARE AND TREATMENT OF VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM**

Thank you for your letter of 16 December, requesting views on Dr Maguire's observations on the action plan produced by the Criminal Justice Board in response to the Criminal Justice Inspection Northern Ireland (CJINI) report on the Care and Treatment of Victims and Witnesses in the Criminal Justice System. It also requested information on the extent and scope of the definition of judicial independence and whether this is set down in statute.

**Criminal Justice Board Action Plan**

The Criminal Justice Board published its Action Plan on the day that CJINI published its report, setting out its initial response to the CJINI recommendations

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and how it intended to implement them. The Plan was co-ordinated by the Department on behalf of the organisations concerned. The lack of detail in the report was a consequence of the short period available in which to compile it, since we were keen to facilitate Dr Maguire in achieving the earliest possible publication date so that his report could assist the Committee in its inquiry into services for victims and witnesses of crime.

That said, the Department agrees that the plan could be improved upon, and each of the organisations which contributed to the initial action plan has now been asked to review it and revise any actions that need to be made more specific or measurable. Once agreed, the revised Action Plan will be re-issued and a copy will be forwarded to the Committee.

### **Judicial Independence**

The question about Judicial Independence was raised, I understand, when Dr Maguire advised the Committee that the “listing and management of cases for court” was a judicial function and remained within the control of the judiciary.

The rule of law is one of the key principles upon which democratic society is based. Fundamental to this is the role of the judiciary, whose primary responsibility is to uphold the rule of law through the fair and impartial resolution of disputes between individuals, and individuals and the state. In order to perform this function effectively, the judiciary must be independent and free to conduct its work without any external influence from the executive or legislature.

In Northern Ireland, the concept of judicial independence has been recognised in the Justice (Northern Ireland) Act 2002, and further reinforced by the Constitutional Reform Act 2005 which provides a guarantee of judicial independence that applies UK wide.

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Section 1(1) of the 2002 Act and section 3(1) of the 2005 Act impose a duty on Ministers, and those responsible for matters relating to the judiciary or the administration of justice, to uphold the continued independence of the judiciary, and in particular prohibit Ministers from seeking to influence judicial decisions through special access to the judiciary.

In Northern Ireland, this duty is further supported by the Judicature (Northern Ireland) Act 1978, which requires the Justice Minister to ensure that there is an efficient and effective system to support the carrying on of court business and appropriate services are provided to those courts.

The Concordat between Her Majesty's Government and the Northern Ireland Executive on the Independence of the Judiciary in Northern Ireland supplements these legislative provisions, underscoring in particular the need for the judicial function to be independent of Government and immune from any partisan or political interest and highlighting the safeguards in place for judicial appointments and removals.

The Concordat also expands on the role of the Lord Chief Justice as President of the Courts and Head of the judiciary of Northern Ireland, highlighting his responsibility for:

- representing the views of the judiciary to the legislature and to the Executive;
- the maintenance of appropriate arrangements for the welfare, training and guidance of the judiciary of Northern Ireland within the resources made available by the responsible Northern Ireland Minister; and
- the maintenance of appropriate arrangements for the deployment of the judiciary and the allocation of work within courts.

The third bullet point above would cover the issue in question of the "listing and management of cases for court".

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I trust this is helpful.

  
**BARBARA McATAMNEY**  
**DALO**

FROM THE OFFICE OF THE MINISTER OF JUSTICE



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Your ref:  
Our ref: COR/111/2011

Ms. Christine Darrah  
Clerk to the Committee for Justice  
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BELFAST  
BT4 3XX

22 February 2012

Dear Christine,

**CORRESPONDENCE FROM MR & MRS D EAGLESON**

Mr & Mrs David Eagleson wrote to the Minister in December 2011 regarding the tragic death of their daughter Erin, highlighting their experiences at various stages of the criminal justice process.

In the Minister's response to Mr & Mrs Eagleson, he asked for their permission to copy their correspondence to the Justice Committee to help inform its inquiry into victims and witnesses of crime. They have now written back to the Minister to advise that they have no objection to this being shared.





FROM THE OFFICE OF THE MINISTER OF JUSTICE



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I am enclosing both letters from Mr & Mrs Eagleson, together with the Minister's responses, and should be grateful if their views could be considered by the Committee as part of its inquiry.

A handwritten signature in black ink, appearing to read 'B McAtamney'.

**BARBARA McATAMNEY  
DALO**

**ENC**



FROM THE OFFICE OF THE JUSTICE MINISTER



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Your ref:  
Our ref: COR/2173/2011

25 January 2012

*Dear Mr and Mrs Eagleson*

Thank you for your letter of 6 December regarding the tragic death of your daughter Erin. Can I first of all say how very sorry I am that you have had to bear such a terrible loss, and that the trauma of that has been compounded by your subsequent experience of the criminal justice system.

With regard to the issue of the difficulty in accessing the mortuary, I can fully appreciate the distress this must have caused you. I understand that you have already written to the Senior Coroner on this issue, and that he has responded to you directly to explain the circumstances.

In relation to the facilities for victims and witnesses at Laganside Court, the court has three private rooms specifically designated for victims and witnesses. These rooms are staffed by Victim Support and the NSPCC. They are designed to provide a safe and comfortable waiting area to ensure that the victim or witness does not come into contact with the defendant or those at court with him/her. Consequently, although



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the rooms are secure and not open to the public, they are not always private as they will have a number of witnesses as well as staff from Victim Support, the NSPCC, the PPS and PSNI coming and going. I am sorry that you felt that there was insufficient privacy, and that you did not find the room you used to be of a suitable standard. The rooms are subject to regular cleaning and planned maintenance but I have asked that your comments about the general fabric of the rooms be passed to the Court Service for their consideration.

The layout of courtrooms in Northern Ireland is in keeping with that throughout the UK, and similar to other jurisdictions. The courtrooms are designed to accommodate communication between the legal representatives and the Judge/Jury. However, although there is a sound system in place within the Laganside courtrooms, it is a recognised problem that those participating within the court do not always speak directly into the microphones; I understand that this has been raised with the Court Users' Forum.

I am aware that currently there is no role afforded within the legal process for the victim's family. However, this issue has been raised by Criminal Justice Inspection in their recently published report on Victims & Witnesses and in the ongoing Assembly Justice Committee inquiry, and I look forward to receiving any recommendations they make on this matter.

Those recommendations, and letters like yours will help us as we develop a new strategy for victims and witnesses of crime, working closely with the Justice Committee. The new strategy, which I plan to publicly consult on in the spring, will aim to deliver a range of improvements for victims and witnesses in key areas such as better communication, additional support and improved understanding of the criminal justice system.

You raised a number of points about delays in court proceedings and lack of information and I know that this can add to the stress of what is an already difficult



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process for family members and victims. I understand that you have written in similar terms to the Public Prosecution Service and that you will shortly receive a response on the points that you have raised.

I know that no sentence can lessen the loss of a loved one and recognise that sometimes they can appear to fall short of what families expect to see. Last year the Lord Chief Justice, aware of the public's concerns, announced a Programme of Action on sentencing, detailing areas where fresh guidance would be developed for the Judiciary. Road traffic offences are included in the Programme.

Alongside this work, I have been considering a range of potential mechanisms by which greater transparency, consistency and understanding of sentencing practice might be achieved and how best these might be delivered in a way that will promote public confidence. I hope to announce proposals on the way forward in the near future.

I am grateful to you for sharing your experiences of the criminal justice system following Erin's death. Your comments will help to inform our thinking as we strive to improve the service provided to victims and their families by all agencies within the criminal justice system.

DAVID FORD MLA  
Minister of Justice

*Thank you for setting out your views in such a clear and helpful way, despite all the trauma this has caused you. Would you be willing for me to share your letter with the Justice Committee, as part of its enquiry?*

*Yours  
David Ford*

FROM THE OFFICE OF THE JUSTICE MINISTER



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Your ref:  
Our ref Sub/583/2011

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6 April 2012

Dear Christine

**CRIMINAL JUSTICE INSPECTION REPORT ON THE CARE AND TREATMENT OF VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM**

In your letter of 16 December, you requested views on Dr Maguire's observations on the Action Plan produced by the Criminal Justice Board in response to the Criminal Justice Inspection Northern Ireland (CJINI) report on the Care and Treatment of Victims and Witnesses in the Criminal Justice System.

In my response of 16 January, I advised that each of the organisations which contributed to the initial Action Plan had been asked to review the Plan and revise any actions that needed to be made more specific or measurable.

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I am pleased to say that this work has now been completed and I attach a copy of the revised Action Plan that has been agreed by the Criminal Justice Board, which the Minister plans to publish shortly.

The revised Plan reflects feedback and advice received from CJINI, and will form the basis for CJINI's follow-up inspection in due course.

*D Graham*  
R/ **BARBARA McATAMNEY**  
**DALO**

**ENC**



Annex A

**CRIMINAL JUSTICE BOARD  
ACTION PLAN  
ON THE CARE AND TREATMENT OF  
VICTIMS AND WITNESSES OF CRIME**

**APRIL 2012**

The Criminal Justice Board has agreed the Action Plan below, which has been endorsed by the Minister of Justice, in response to the Criminal Justice Inspection (CJINI) Report "The Care and Treatment of Victims and Witnesses in the Criminal Justice System in Northern Ireland". It consists of three key areas: strategic/key recommendations, operational recommendations and areas for improvement. The plan will be delivered through joined-up working by the relevant justice agencies and our voluntary sector delivery partners.

	<b>CJINI Strategic/Key Recommendations</b>	<b>Accepted</b>	<b>Lead</b>	<b>Action</b>
<b>1</b>	In terms of delay Inspectors point to the recommendations made in their report 'Avoidable Delay' (published May 2010) and repeat those recommendations insofar as they remain vital to improving the experiences of victims and witnesses. <b>(Paragraph 4.37)</b>	Accepted	DOJ	<p>The Criminal Justice Board is overseeing a multi agency programme of work to implement the changes recommended in the CJINI 2010 report. CJINI has indicated that it will review progress made in meeting the recommendations later in 2012.</p> <p>The Justice Minister has approved plans for a second phase of work to introduce more fundamental changes to the criminal justice system including:</p> <ul style="list-style-type: none"> <li>• reform the process for committing cases to the Crown Court;</li> <li>• bring forward alternatives to prosecution</li> <li>• encourage earlier guilty pleas;</li> <li>• reform summons process;</li> </ul>

<ul style="list-style-type: none"> <li>• improve the timeliness of forensic services; and</li> <li>• widen the use of video links.</li> </ul> <p>Following the CJINI follow-up inspection on delay, published on 24 January, the Justice Minister has also announced his intention to introduce statutory time limits for the Youth Court within the lifetime of the current Assembly mandate.</p>			<p>Case management is addressed in the Lord Chief Justice's recent Practice Direction (No 5/2011 - Protocol for Case Management in the Crown Court). This practice direction came into operation on 6<sup>th</sup> January 2012 and at this stage it seems sensible to allow this an opportunity to take effect and to determine at a later stage whether it has achieved the desired results.</p> <p>While case management is a judicial function, and the judiciary are independent, the option of legislating in relation to a statutory case management scheme at some future date cannot be ruled out should it be required. We will, therefore, seek the views of the Chief Justice on the impact which his practice direction is having on the work of the Crown Court once it has been in operation for a twelve month period.</p> <p>In parallel, the Minister has made a commitment to introduce statutory time limits (STLs) within the life</p>
		<p><b>Under Consideration</b></p>	<p>DOJ</p>
		<p>Inspectors recommend that case management is placed on a statutory footing with timescales, sanctions and incentives designed to deliver the most efficient and effective case progression. The DOJ should ensure the issue is included in their strategic action plans and progressed by 31 May 2012. <b>(Paragraph 4.41)</b></p>	
<p><b>2</b></p>			

<p>of this Assembly mandate.</p> <p>A multi agency group has been established to develop a scheme for STLs to be delivered as part of the wider package of reforms outlined at Action 1. In line with the recommendations made by CJINJ, the Youth Justice Review, and the Review of Prisons, the new time limits will, in the first instance, be applied to the Youth Court.</p>			<p>3</p> <p>Inspectors recommend that the current VWSSG should be re-constituted and incorporate amongst its membership senior executives from each of the main criminal justice system agencies. These senior executives as core members should also be appointed as the individual agencies 'victims champions'. Importantly, the VWSSG should report directly to the Minister and the Criminal Justice Delivery Group on issues concerning victim and witness care and treatment, while at the same time keeping Criminal Justice Board advised of its work.</p> <p>Victims Champions should be responsible to and directly report to the heads of each of the main justice agencies (PSNI/PPS/NICTS/PBNI) on matters including:</p> <ul style="list-style-type: none"> <li>▪ Organisational performance in respect of the care and treatment of victims and witnesses;</li> <li>▪ The implementation (operational delivery) of policy/ commitments and the Victims Code;</li> <li>▪ Active liaison across the criminal justice system</li> </ul>	<p><b>Accepted in part</b></p>	<p><b>DOJ</b></p>	<p>The membership of the VWSSG has been reviewed, in the context of a wider overhaul of the governance arrangements for the multi-agency programmes of work on improving services to victims and witnesses and speeding up justice. A new Faster Fairer Justice Programme Board is being introduced which will incorporate in its membership senior executives from the criminal justice organisations and voluntary sector partners.</p> <p>The Programme Board will monitor progress by the VWSSG and report, through the Criminal Justice Board, to the Criminal Justice Delivery Group.</p> <p>Victims Champions have now been appointed for each of the individual criminal justice organisations and Terms of Reference agreed. The Terms of Reference will be reviewed after 12 months along with a review of what has been achieved in the</p>
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<p>previous year. The Minister has asked for regular reports to the Criminal Justice Delivery Group on the work of the Victims Champions.</p>			<p>with other partners;</p> <ul style="list-style-type: none"> <li>▪ Engagement with victims/victims groups and application of the learning from this; and</li> <li>▪ Representing the views of victims <b>(Paragraph 6.20)</b></li> </ul>	
<p>A project to oversee the establishment of Witness Care Units has commenced and is being taken forward jointly by the PPS and the PSNI. Key milestones include:</p> <ul style="list-style-type: none"> <li>▪ Project Board established 31 January 2012;</li> <li>▪ Project Plan to be produced by April 2012;</li> <li>▪ Pilot Scheme to start by autumn 2012 (to deal with Magistrates Courts, Youth Courts and County Courts in Belfast region);</li> <li>▪ Review operation of pilot by December 2012;</li> <li>▪ Roll out to Crown Court, Belfast region by March 2013;</li> <li>▪ Roll out to all regions and courts between March 2013 and December 2013.</li> </ul>	<p>PPS/ PSNI</p>	<p><b>Accepted</b></p>	<p>Inspectors recommend the reconstituted VWSG oversee the establishment of WCUs in Northern Ireland but led by PPS and using the existing CLTs as the core basis for delivery. Inspectors consider that an amalgam of PPS CLTs, elements of the PSNI R4 model (in terms of victim contact and updating), NICTS CPOs and VSNI can provide a vehicle to achieve a WCU ('one stop shop') facility which will significantly enhance the experience of victims and witnesses. <b>(Paragraph 6.52)</b></p>	<p><b>4</b></p>
<p>We are working towards the amalgamation of the current post conviction schemes. PBNI, NIPS and the DOJ are working closely to ensure that the agreed final scheme will be built on best practice and victim feedback.</p> <p>Victims groups have been consulted with and their input will be included in the new scheme.</p>	<p>PBNI/ NIPS/ DOJ</p>	<p><b>Accepted</b></p>	<p>Inspectors recommend the amalgamation of all post conviction victim information schemes under the supervision of the PBNI. <b>(Paragraph 5.65)</b></p>	<p><b>5</b></p>

	<p>On going work will focus on:</p> <ul style="list-style-type: none"> <li>▪ Clarifying any legislative changes required in relation to the three schedules (relating to each Victim Information Scheme) and confirm dates to be included in the relevant Justice Bill prior to referral to the justice Committee (March/April 2013);</li> <li>▪ Identifying a suitable location for the amalgamated scheme and obtaining Departmental approval by April 2012;</li> <li>▪ Work commenced in March 2012 on a detailed report to include:             <ul style="list-style-type: none"> <li>○ Timeline for the amalgamation;</li> <li>○ Agreement on any changes to IT systems;</li> <li>○ Staff training;</li> <li>○ Conditions of appointment;</li> <li>○ Publicity and communication regarding the amalgamated scheme;</li> <li>○ Overall management of the scheme.</li> </ul> </li> <li>▪ Scoping involvement in Witness Care Unit by September 2012;</li> <li>▪ Complete amalgamation of the schemes by December 2012.</li> </ul>				<p>Work will commence in April 2012 on the definition and development of an advocacy service with a view to producing an options paper by Autumn 2012.</p> <p>The outcome of the options paper will be the</p>
					<p><b>Accepted</b></p>
					<p><b>DOJ</b></p>
<p><b>6</b></p>	<p>In order to address the needs of victims who:</p> <ul style="list-style-type: none"> <li>▪ do not engage the criminal justice system;</li> <li>▪ have difficulty accessing criminal justice services;</li> <li>▪ need help beyond the period when the criminal justice process has ended; or</li> </ul>				



<p>commencement of the delivery of a new service within the timeframe of the new victim and witness strategy.</p>			<p>who need specialist assistance for reasons of vulnerability. the DOJ should further develop its advocacy services. (<i>Paragraph 5.13</i>)</p>	
<p><b>Action</b></p>	<p><b>Lead</b></p>	<p><b>Accepted</b></p>	<p><b>CJINI Operational Recommendations</b></p>	<p><b>1</b></p>
<p>Since the inspection there have been developments in this area of work as part of the PSNI R4 Project.</p>	<p>PSNI</p>	<p>Accepted</p>	<p>Inspectors recommend that victim's letters should be revised by PSNI to take account of the matters raised in this report at paragraphs 2.29 and 2.30. (<i>Paragraph 2.30</i>)</p>	
<p>In line with the spirit of the CJINI report, PSNI is moving away from written communication to more personal communication with victims.</p>				
<p>All victims of crime are now provided with an information card by officers attending their call. This scheme commenced in June 2010 and roll out was completed across PSNI by November 2011.</p>				
<p>The card provides details and the contact number of the investigating police officer, the crime reference number and Victim Support details in their area. It also provides contact details of the Contact Management Support Unit for their area.</p>				
<p>Police Officers now provide personal updates to victims at regular intervals:</p> <ul style="list-style-type: none"> <li>• Within 10 days</li> <li>• Within or around 30 days</li> <li>• Within or around 75 days</li> </ul>				

<p>In addition Police Officers will also update a victim if there has been a significant development in their case.</p> <p>Records of contact with victims are recorded on PSNI IT systems. Compliance is monitored by supervisors. System audit and update compliance rates are provided to District Senior Management Teams.</p> <p>As a result of the R4 Project work outlined PSNI are now reviewing the need to write to victims of crime.</p> <p>The target date for completion of this review is the end of September 2012.</p>			<p>On the matter of post foundation training Inspectors would recommend PSNI examine how they can deliver appropriate victim focussed refresher training to officers who are routinely engaged in public response (whether by way of call management or physical response) at key stages. <b>(Paragraph 2.47)</b></p>	<p><b>2</b></p>
<p>PSNI recognises the need to constantly update officers' skills base in relation to victim focus and as such the following work is proposed:</p> <ul style="list-style-type: none"> <li>• Training Needs Analysis (TNA) to identify specific needs in relation to victim focused refresher training –             <ul style="list-style-type: none"> <li>◦ Resources to be agreed and appointed to carry out TNA by May 2012</li> <li>◦ TNA to be completed by August 2012</li> </ul> </li> <li>• Full training plan to be developed post TNA for agreement by PSNI Strategic Training Review Group in October 2012.</li> <li>• Outcomes from the TNA will be contained within the above strategic training plan and will</li> </ul>	<p><b>PSNI</b></p>	<p><b>Accepted</b></p>		

				be implemented over the next 3 year period.
<b>3</b>	Inspectors recommend that the PPS review of letters take account of the findings and comments at paragraph 3.12 and paragraphs 3.14 - 3.18. ( <b>Paragraph 3.14</b> )	<b>Accepted</b>	<b>PPS</b>	A phased review of letters has commenced, with the following milestones: Phase 1 (revision of letters) completed 28 September 2011. Phase 2 (review of summons documentation) completed October 2011. Phase 3 (consultation with key external stakeholders, and subsequent approval of PPS senior management) completed February 2012. Phase 4 (IT specification) end April 2012 Phase 5 (review of leaflets) end April 2012
<b>4</b>	It is [therefore] recommended that the CLTs become a WCU and that the role is extended to the Crown Courts. ( <b>Paragraph 3.25</b> ) NB* This recommendation is linked to the recommendation regarding the establishment of WCUs (see paragraph 6.52)	<b>Accepted</b>	<b>PPS</b>	As per <b>strategic/key recommendation 4</b> . This will be included in the joint PPS/PSNI Project Plan.
<b>5</b>	Inspectors recommend that PPS incorporate dedicated training on the care and treatment of victims and witnesses as part of its system of continuous professional development. ( <b>Paragraph 3.31</b> )	<b>Accepted</b>	<b>PPS</b>	PPS produce a training plan each year to address changes in the law, policy and practice. All courses are accredited under Law Society and Bar Council Continuing Professional Development (CPD) schemes. The care and treatment of victims and witnesses is already included in the training plan. Barristers and solicitors are already subject to mandatory CPD.  The following training on the care and treatment of

<p>victims is currently being delivered as part of the PPS CPD scheme. The aim is to improve the way that victims and witnesses are treated when they come in contact with the PPS and ensure that they are provided with all necessary assistance.</p> <p>Victim &amp; Witness (Re-victimisation) Awareness training is currently being delivered by VSNII/SAMMNI for all prosecutors, Community Liaison Team staff, court support staff, case workers and Law Clerks. This should be completed within the next few months.</p> <p>Training in the provision of Special Measures is currently being delivered in-house for all prosecutors, Community Liaison Team staff and court support staff.</p> <p>Other training being delivered which is relevant to victim and witness care includes:</p> <ul style="list-style-type: none"> <li>▪ Understanding the Psychology of Rape by Zoe Lodrick - to prosecutors and panel counsel;</li> <li>▪ Hate Crime, Rape and Road Traffic Offences; Human Rights;</li> <li>▪ Diversity awareness training – all new staff – ongoing half day courses;</li> <li>▪ Mental Health Issues training –delivered to relevant staff;</li> <li>▪ Advanced telephone technique - delivered to key staff (all Community Liaison Teams).</li> </ul> <p>All training is monitored by the PPS Training</p>				
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6	<p>The Criminal Justice Board should implement technical solutions across the criminal justice system to update victims and witnesses about developments in their case including whether they need to attend court, the date, time and venue where the offence will be listed, and the eventual outcome of the hearing. This should be regarded as a 'self-service' facility in which victims and witnesses, using a unique reference can access information about their case from soon after first report until its disposal. Such a service should also 'signpost' support services, where appropriate. <b>(Paragraph 3.40)</b></p>	Accepted in principle	PSNI/ PPS	<p>Branch to ensure that the relevant staff attend. Additional training courses will be organised for new staff when suitable numbers are available.</p> <p>The development of improved information systems in support of Witness Care Units will be the foundation of improved information for victims and witnesses about developments in their case.</p> <p>Work on systems for updating victims and witnesses will be included in the joint PPS/PSNI Project Plan for the creation of Witness Care Units.</p> <p>Staff working in the Witness Care Unit will have access to both the PSNI NICHE computer system and the PPS Case Management system.</p> <p>As outlined in the response to Operational Recommendation 1, PSNI has instigated a programme of change designed to improve the management of 'Victim Updates'. This will improve the consistency and efficiency of the victim update process and includes the implementation of computer technology to support the process, whereby victim updates are 'flagged' to officers at the regular intervals previously outlined.</p> <p>Compliance with the victim update process is robustly monitored through the IT system which</p>
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	<p>automatically highlights outstanding updates. Compliance is monitored by supervisors. System audit and update compliance rates are provided to District Senior Management Teams.</p> <p>PPS are developing a computerised user interface to provide case progression information regarding cases prosecuted by PPS. A pilot will run from 1 April 2012 and rollout will follow after evaluation.</p> <p>The effect of both computer systems would be that victims can be kept informed of the progress on their case from the date reported until its disposal.</p> <p>The Victim and Witness Steering Group will be responsible for overseeing the effectiveness of these measures to improve victim updates and for considering further development of victim update systems as part of our new five year strategy, building on what has been put in place through the new Witness Care Units.</p>				<p>The NICTS started recording data about the number and reasons for cracked and ineffective trials in January 2012. Work is likely to take six to nine months completing in Autumn 2012. In tandem, the Speeding Up Justice Team is developing a model to measure the cost of criminal cases and to identify savings that could be realised if the number of cracked and ineffective trials were reduced.</p>
					<p>The DOJ should consider how it can measure the costs and issues arising in 'cracked' and 'ineffective' trials highlighting where costs can be saved and outcomes for victims and witnesses improved. <b>(Paragraph 4.36)</b></p>
7			Accepted	DOJ	



				As part of the programme, a consultation on measures to encourage earlier guilty pleas launched on 19 January 2012, with a closing date for responses by 27 April 2012, with any legislative provisions being brought forward in the next Criminal Justice Bill.
<b>8</b>	Systems must be agreed and put in place (supported by PSNI, PPS and NICTS) to support operational Police Officers and ultimately victims in providing timely and accurate information with regard to bail, starting with the most serious cases. However, in view of the Law Commission expected report Inspectors make this a conditional recommendation. ( <b>Paragraph 4.60</b> )	<b>Accepted in principle</b>	<b>PSNI/ PPS/ NICTS</b>	This has been accepted pending the outcome of the review by the Law Commission.  Notification of the grant of bail is the responsibility of the PSNI. A protocol will be developed between PSNI and PPS by January 2013 regarding the responsibility and timescales for information provision.
<b>9</b>	Inspectors recommend that the Criminal Justice Board introduce guidance on a Victim Impact Scheme in Northern Ireland and that the lessons learned from implementation of the Victim Personal Statement in England & Wales are considered in doing so. Once agreed, the guidance should be available to the public. ( <b>Paragraph 4.77</b> )	<b>Accepted</b>	<b>DOJ</b>	A consultation was launched on 15 December 2011 on the provision of Victim Impact Statements/Victim Impact Reports. The closing date for responses was 23 March 2012.  All responses are being analysed and a way forward will be agreed by Summer 2012 and guidance developed and made available to the public by March 2013.
<b>10</b>	Inspectors recommend that DOJ works with NICTS and VSNI to develop a clear system of voluntary referrals and thus support for victims/victims families and other witnesses who attend Coroner's	<b>Accepted</b>	<b>DOJ/ VSNI</b>	Work commenced in January to identify the level of support needed by victims and their families. Recommendations for an appropriate system to meet this need will be made in April 2012.

			<p>Courts. <b>(Paragraph 5.9)</b></p>	
<p><b>11</b></p>	<p><b>PPS/ PSNI</b></p>	<p><b>Accepted in part</b></p>	<p>Inspectors recommend that the broad demarcations of lead responsibility for victim and witness care in the criminal justice system are firmly established and followed as follows:</p> <ul style="list-style-type: none"> <li>▪ Report to decision to prosecute – PSNI</li> <li>▪ Decision to prosecute to disposal - PPS <b>(Paragraph 6.36)</b></li> </ul>	<p>It is considered that the proposed demarcation is unduly simplistic and does not take sufficient account of the involvement of PPS in victim and witness care prior to the decision to prosecute, nor does it reflect the degree of involvement of PSNI after the decision to prosecute has been taken.</p> <p>It is anticipated that the introduction of Witness Care Units will have the capacity to effect the outworking of this recommendation and accordingly it is proposed that a SLA will be drawn up between PPS and PSNI to reflect the new arrangements by 1 September 2012.</p>
<p><b>12</b></p>	<p><b>DOJ</b></p>	<p><b>Accepted</b></p>	<p>In respect of the gap between policy and practice Inspectors consider that individual agency victims champions (when appointed) should examine their own regimes in terms of:</p> <ul style="list-style-type: none"> <li>▪ a focus on outcomes for victims and witnesses;</li> <li>▪ the importance and priority given to victims and witnesses issues;</li> <li>▪ the performance indicators which underpin points one and two above;</li> <li>▪ the quality assurance mechanisms in place to support monitoring/measurement, supervision; and</li> <li>▪ monitoring of the care and treatment of victims and witnesses which supports the fourth point above.</li> </ul>	<p>Victims Champions have been appointed for each organisation. Terms of Reference were agreed in March 2012.</p>

	<b>(Paragraph 6.42) NB*</b> This is an operational matter linked into the recommendation made at par 6.2.			
	<b>CJINI Areas for Improvement</b>	<b>Accepted</b>	<b>Lead</b>	<b>Action</b>
<b>1</b>	Police Call Management Units and staff who are responsible for the dispatch of Officers to calls should consider appropriate system checks to ensure responding officers are aware of previous reports/incidents, as well as the potential presence of firearms at the address. <b>(Paragraph 2.12)</b>	Accepted	PSNI	Customer Relationship Management (CRM) is IT software which will assist both Call Management Units and the deployment of Police resources to an incident.  The software, which will be linked to PSNI systems, will provide details of previous occurrences involving the caller and/or a specific address.  Measures already exist to alert Police to the presence of a firearm at an address.  CRM is currently deployed in two Districts. Full roll out to all Districts is anticipated by the end of October 2012.  The implementation of this project is being managed under the R4 implementation project with a clear timetable for delivery.
<b>2</b>	Inspectors recommend that together with VSNI and NSPCC, PSNI and PPS re-visit referrals to the witness schemes to ensure that gaps can be narrowed and that the service to victims is as seamless as possible. <b>(Paragraph 2.22)</b>	Accepted	PSNI/ PPS/ VSNI/ NSPCC	Witness Care Units will be an important building block for the improvement of services to victims through the witness schemes.  This will encompass providing a structured approach to victim referrals for Crown Court and

				<p>the PPS electronic system of referrals in the Magistrates' Court and Youth Court, to the Witness Service and Young Witness Service.</p> <p>This will include agreement on the information to be supplied by the PPS and PSNI, and both organisations will continue to work with voluntary sector delivery partners to identify and address any remaining gaps in the provision of service.</p>
<b>3</b>	<p>Inspectors recommend PSNI reminds all Officers of the need to ensure appropriate advice is provided to all witnesses regarding the provision of a formal written statement. (<b>Paragraph 2.33</b>)</p>	<b>Accepted</b>	<b>PSNI</b>	<p>This Action has been completed. An instruction was issued to Police Officers on 3 February 2012. This took into account the comments in paragraph 2.33 of the report.</p>
<b>4</b>	<p>Inspectors recommend PSNI ensures maximum use is made of initial needs assessments as part of victims and witness care. (<b>Paragraph 2.36</b>)</p>	<b>Accepted</b>	<b>PSNI</b>	<p>All front line officers will be trained in Special Measures by June 2012.</p> <p>This training is intended to maximise the use of initial needs assessments and raise awareness of prompts that have been developed to assess the potential vulnerability or intimidation of a victim or witness.</p> <p>Other work in this area includes improving the NICHE Case Management system – both IT and reports - to ensure initial needs assessments are carried out and shared with the PPS at the earliest possible stage.</p> <p>This work has commenced under the PSNI/PPS Special Measures Action Group (SMAG), which</p>

<p><b>5</b></p>	<p>Inspectors recommend the PSNI ensures that the cultures embedded in the Police College and in student officers are transferred from the training environment to the front line and maintained over time. This can be achieved by:</p> <ul style="list-style-type: none"> <li>▪ supervision by experienced Officers at Sergeant rank and above;</li> <li>▪ the maintenance of a culture of customer care/ customer focus and interpersonal skills;</li> <li>▪ delivery of mechanisms which assist the process of victim and witness care and further embed the culture of customer focus; and</li> <li>▪ delivery of further training to front line officers at key points in their service [as recommended at Paragraph 2.478]. (<b>Paragraph 2.48</b>)</li> </ul>	<p><b>Accepted</b></p>	<p><b>PSNI</b></p>	<p>meets monthly. Work is due for completion by January 2013.</p> <p>The examples outlined are an intrinsic element of the PSNI 10 Commitments and the Policing with the Community 2020 Strategy, which was introduced in March 2011.</p> <p>The Policing Commitments are built around good consistent basic policy. They are subject to a monitoring framework to consider the effectiveness of PSNI's ongoing policing activities.</p> <p>The aim of the strategy is to support the delivery of community confidence, satisfaction and safety through personal, protective, professional policing.</p> <p>Customer service is at the heart of the strategy, which will be a live and evolving strategy refreshed on a regular basis.</p> <p>An Individual Performance Appraisal System for each officer and staff member is being developed to support the delivery of the Policing with the Community Strategy.</p> <p>This is currently in Pilot and the aim is to fully implement this Appraisal System in April 2012.</p> <p>As per Operational Recommendation 2 the PSNI recognises the need to constantly update officers</p>
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				skills base in relation to victim focus and the PSNI Strategic Training Group are committed to agreeing and developing a full training plan by November 2012 with implementation progressing thereafter.
<b>6</b>	Inspectors would recommend that there is a central oversight and evaluation by Criminal Justice Directorate of policing initiatives and, where appropriate, corporate application of the learning. This could take the form of a good practice web-site where others could learn from the positive and negative aspects of such schemes. <b>(Paragraph 2.54)</b>	<b>Accepted</b>	<b>PSNI</b>	PSNI recognises the need to share best practice in a more meaningful manner and part of this scoping will be to identify the best method for delivery. A good practice website will be one of the options considered.  This work will be completed by 1 July 2012, whereupon a full implementation plan will be developed based on the scoping.
<b>7</b>	Prosecuting Counsel are not Access NI checked. This is a matter which Inspectors recommend should be addressed by PPS in employing Counsel for sensitive cases and those involving children. <b>(Paragraph 3.32)</b>	<b>Not accepted</b>	<b>PPS</b>	Having regard to the nature of duties which Counsel perform it is considered that, in circumstances where the Safeguarding Vulnerable Groups (NI) Order 2007 does not include provision for prosecuting Counsel to be checked by AccessNI, sufficient protection is afforded through the selection process for Panel Counsel which includes a requirement to disclose previous convictions and disciplinary proceedings.
<b>8</b>	Specifically for NICTS, Inspectors recommend that the various responsibilities and how they will be delivered should be added to its victims and witnesses policy in its next revision. <b>(Paragraph 4.7)</b>	<b>Accepted</b>	<b>NICTS</b>	NICTS is in the process of revising its Victim and Witness Policy. The current draft will be amended to include clear lines of responsibility for the various stated commitments to victims and witnesses. Greater detail on how these



<p>commitments are delivered will also be included. Consensus with other agencies involved has been sought and the revised policy will be published by May 2012.</p>			
<p>In conjunction with Training Branch and PPS, a training package was developed in relation to Special Measures.</p> <p>District Trainers received a briefing on this in February 2011 and PSNI are currently in the process of delivering training on Special Measures and Vulnerable and Intimidated Witnesses to front line Police Officers.</p> <p>It is anticipated the roll out of this training will be completed by the end of June 2012.</p> <p>Special Measures are also covered in various courses for CID officers and Specialist Investigators.</p> <p>Alongside the practical training, delivery officers will also have access to training and support materials on the Criminal Justice Web guidance pages.</p>	<p><b>PSNI</b></p>	<p><b>Accepted</b></p>	<p>Inspectors recommend that all PSNI Officers likely to be engaged in dealing directly with crime victims are given awareness training in the application of special measures. <b>(Paragraph 4.64)</b></p>
<p>Formal working arrangements have been put in place between both services to further this specific recommendation.</p> <p>PPS and PSNI are conducting a joint programme</p>	<p><b>PSNI/ PPS</b></p>	<p><b>Accepted</b></p>	<p>Inspectors recommend that PSNI and PPS work together to provide a clear and auditable system of information to support the best possible care and treatment of victims and witnesses. Specifically this could include matters such as vulnerabilities;</p>
<p><b>9</b></p>		<p><b>10</b></p>	

	special needs; fears or concerns; special measures; the 'victim contract' and updates (as discussed in Chapter 2); and links to witness assessments and WCUs. <b>(Paragraph 4.65)</b>			of training in respect of special measures to operational staff throughout Northern Ireland.  The Joint Special Measures Action Group is taking forward work to pass information on witness's vulnerability from PSNI to PPS via Causeway by September 2012.
<b>11</b>	Inspectors would urge that NICTS conduct a review of the holding and availability of [such] technical equipment across its estate with a view to achieving a balanced approach bearing in mind financial restrictions and the needs of stakeholders including victims and witnesses. <b>(Paragraph 4.66)</b>	<b>Accepted</b>	<b>NICTS</b>	NICTS are in the process of undertaking a refresh of all technical equipment across the Court Estate including audio-visual equipment used to deliver special measures.  As part of this review NICTS have completed an evaluation of the holding and availability of existing audio-visual equipment. A draft report was sent to Senior Management in December 2011 and some further follow up work is now being completed.
<b>12</b>	Inspectors would encourage PPS to quality assure practice with regard to communication with victims surrounding appeals during the following six months. <b>(Paragraph 4.70)</b>	<b>Accepted</b>	<b>PPS</b>	This is part of an ongoing programme of work. A new set of letters for appeals is to be introduced by April 2012. This will be quality assured after three months of operation (autumn 2012).

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Ms Christine Darrah  
Committee Clerk  
Committee for Justice  
Northern Ireland Assembly  
Parliament Buildings  
Stormont  
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BT4 3SW

19 May 2012

Dear Christine,

**VICTIM AND WITNESS ANNUAL ACTION PLAN 2012-13**

The Minister is due to publish the Victim and Witness Annual Action Plan for 2012-13, which sets out a number of actions to improve services for victims and witnesses of crime.

I attach a copy of the Action Plan for the Committee's information.

*P.P. Jane Holmes.*

**BARBARA McATAMNEY  
DALO**

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**Building a fair, just and safer community**

ANNEX A

Annex A

VICTIM AND WITNESS ANNUAL ACTION PLAN 2012-13

	Strategic Actions	Lead	Supporting Organisations
1	To publish a new five-year strategy to ensure the ongoing strategic delivery of improved services to victims and witnesses by March 2013. <b>(improving access to information, keeping victims and witnesses informed, providing a quality service, supporting individual needs, listening to victims and witnesses)</b>	DOJ	VWSG
2	The Victims Champions will provide an organisational focus on the care and treatment of victims and witnesses by: <ul style="list-style-type: none"> <li>▪ keeping an overview of organisational performance in relation to services for victims and witnesses;</li> <li>▪ promoting the importance of victims and witnesses issues within the organisation, ensuring these are given the appropriate priority and that there is an organisational focus on improving outcomes for victims and witnesses; and</li> <li>▪ challenging attitudes and behaviours, where necessary.</li> </ul> <b>(CJINI SR3) (providing a quality service)</b>	DOJ	VWSG
3	To commence a pilot scheme for Witness Care Units by autumn 2012 (to deal with Magistrates Courts, Youth Courts and County Courts in Belfast region), review pilot by December 2012, with a roll out to Crown Court, Belfast region by March 2013.	PPS/PSNI	DOJ/PBNI/NIPS/VSNI/NSPCC

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	Strategic Actions	Lead	Supporting Organisations
	(CJINI SR4) (improving access to information, keeping victims and witnesses informed, providing a quality service)		
4	To complete the merging of the current post conviction schemes (PBNI, NIPS, DOJ) by December 2012. (CJINI SR5) (improving access to information, keeping victims and witnesses informed, providing a quality service)	PBNI/NIPS/ DOJ	
5	To produce an options paper on an advocacy service by November 2012. (CJINI SR6) (supporting individual needs)	DOJ	VWSG
6	To begin a pilot of the Victim Information Portal by April 2012. (improving access to information, keeping victims and witnesses informed, providing a quality service)	PPS	
7	To provide draft instructions to place the Victim Code of Practice on a statutory footing through the Faster Fairer Justice Bill by December 2012. (improving access to information, keeping victims and witnesses informed, providing a quality service, supporting individual needs, listening to victims and witnesses)	DOJ	
8	To work towards compliance with the EU Directive establishing minimum standards on the rights, support and protection of victims of crime on its	DOJ	EU Victims Directive Sub Group

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	Strategic Actions	Lead	Supporting Organisations
	publication. <b>(improving access to information, keeping victims and witnesses informed, providing a quality service, supporting individual needs, listening to victims and witnesses)</b>		
9	To make recommendations for an appropriate system to meet the needs of victims and witnesses who attend the Coroner's Court by April 2012. <b>(CJINI OR10)</b> <b>(improving access to information, keeping victims and witnesses informed, providing a quality service, supporting individual needs)</b>	DOJ	VSN/NSPCC/NICTS
10	To continue to address the practical issues identified during the review of the operation of special measures and to implement an action plan in response to the recommendations in the Criminal Justice Inspection report following its Thematic Inspection on the Use of Special Measures in the Criminal Justice System in Northern Ireland by March 2013. <b>(improving access to information, keeping victims and witnesses informed, providing a quality service, supporting individual needs, listening to victims and witnesses)</b>	DOJ	VIIWWG
11	To provide intermediary schemes to help vulnerable persons on a pilot basis by March 2013. <b>(supporting individual needs, listening to victims and witnesses)</b>	DOJ	VIIWWG



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	Strategic Actions	Lead	Supporting Organisations
12	To continue to promote measures to reduce waiting times for victims and witnesses while at court and to monitor results by March 2013. <b>(keeping victims and witnesses informed, providing a quality service)</b>	NICTS	PPS/VSNI/NSPCC
13	To agree the way forward on the recommendations in the NSPCC report on the evaluation of the Youth Witness Service Remote Live Link by September 2012. <b>(providing a quality service, supporting individual needs)</b>	NICTS	NSPCC/VSNI/PPS/DOJ
14	To implement the actions identified that will address the principal victim and witness concerns about court attendance by March 2013. <b>(providing a quality service, supporting individual needs)</b>	PSNI/PPS	NICTS/VSNI/NSPCC
15	To implement a new victim impact scheme, incorporating the provision of victim impact statements and victim impact reports and the use of community impact assessments by January 2013. <b>(CJINI OR9) (providing a quality service, listening to victims and witnesses)</b>	DOJ	VWSG
16	To bring forward and implement, by March 2013, a programme of qualitative research on the experiences of victims and witnesses, to include: <ul style="list-style-type: none"> <li>- a study on the experiences of families bereaved through murder, manslaughter and culpable road deaths, of the criminal justice process;</li> <li>- the development of a revised NIVAWS questionnaire; and</li> <li>- jury perceptions of the use of special measures.</li> </ul> <b>(providing a quality service, supporting individual needs, listening to victims and witnesses)</b>	DOJ	PSNI/NICTS/VSNI/NSPCC

ANNEX A

	Strategic Actions	Lead	Supporting Organisations
17	To review the impact of the Youth Conference process on victims by March 2013. <b>(providing a quality service)</b>	YJA	

	Operational Actions	Lead	Supporting Organisation's
1	To develop a protocol between PSNI and PPS for providing timely and accurate information to victims with regard to bail by January 2013. <b>(CJINI OR8)</b> <b>(improving access to information, keeping victims and witnesses informed, providing a quality service)</b>	PSNI/PPS	NICTS
2	To draw up a SLA between PPS and PSNI to reflect demarcations of lead responsibility for victim and witness care in the criminal justice system by September 2012. <b>(CJINI OR11)</b> <b>(providing a quality service, supporting individual needs)</b>	PPS/PSNI	
3	To take forward work to pass information from PSNI to PPS on witnesses' vulnerability via Causeway by September 2012. <b>(CJINI AF110)</b> <b>(improving providing a quality service, supporting individual needs)</b>	PSNI/PPS	





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Appendix 6

# Additional papers considered by the Committee



- 1 Criminal Justice Inspection Northern Ireland (CJI NI) briefing paper on the Care and Treatment of Victims and Witnesses in the Criminal Justice System in Northern Ireland
- 2 Notes of informal meetings with individuals and families
- 3 Note of Committee visit to West Yorkshire Witness Care Unit
- 4 Correspondence of 18 May 2012 from CJI NI providing comments on the Revised Criminal Justice Board Action Plan on the Care and Treatment of Victims and Witnesses of Crime



# CJINI – Briefing Paper

## The care and treatment of Victims and Witnesses in the Criminal Justice System in Northern Ireland

### Introduction

The effective and appropriate treatment of victims, witnesses and their families presents enormous challenges to the criminal justice system. At a human level the experience of crime is traumatic and can change the course of a person's life forever. The process of dealing with the justice system can create anxiety and concern. The range of problems presented can be very broad and often outside the control, or indeed, the experience, of the criminal justice system. At the same time the delivery of justice requires that victims and witnesses and their families are given the necessary support and encouragement to make their contribution to the investigation and prosecution of individual cases and come to terms with the impact of criminal activity.

The reality of the situation is that despite many policies, practices and procedures and initiatives in dealing with victims and witnesses, the goals of the justice organisations do not have – at their core – the effective treatment of victims and witnesses. The purpose of the Police Service of Northern Ireland (PSNI) is to protect life and property, preserve order, prevent the commission of crime and bring offenders to justice. The role of the Public Prosecution Service (PPS) is to make decisions as to whether or not to prosecute. Its role is to represent the public interest not the victim in the prosecution of cases. The Northern Ireland Courts and Tribunals Service (NICTS) provides the effective administration to the courts system while the Judiciary interpret and apply the rule of law.

There is therefore, at the heart of the discussion a core tension that needs to be recognised and acknowledged. Our system of justice ensures that once an offence has been reported to the police and referred to the prosecution service, decision making and the pursuit of a prosecution is taken out of the hands of the victim and placed in the hands of independent prosecutors. The matter then becomes an issue between the State and the Defendant and the system has developed to primarily take account of the process of bringing defendants to justice. This means the justice organisations must make an extra effort to help and support victims as they progress through the justice system.

This is not to imply that the justice system does not have a real desire to meet the needs of victims nor policies which are aimed at meeting these needs. Rather is it simply a statement of fact on the purpose of the justice system overall. In the adversarial and common law system that exists in the United Kingdom the objective of “putting victims at the heart of the justice system” will only serve to raise expectations which cannot be delivered. This can mean that victims and witnesses feel on the periphery of the justice system and that they can to some extent feel excluded from the administration of justice. It could help explain why victims often feel the system spends more time thinking about the needs of the defendant rather than those who have been the victims of crime.

The purpose of this thematic inspection was to consider the treatment of victims and witnesses by the criminal justice organisations, in particular the efforts made by these organisations since previous Criminal Justice Inspection (CJI) reports in 2005 and 2008. The primary aim of this inspection was to determine and assess the mechanisms, policies and practice in place for the care and treatment of victims and witnesses within the criminal justice system in Northern Ireland and to make appropriate recommendations to deliver improved experiences for victims and witnesses.

The inspection involved extensive interviews with personnel from within criminal justice organisations, a review of a selection of case files, consultation with the voluntary and community sector, a review of a range of operating policies and procedures, interviews with and a qualitative survey of those who have been the victims of a range of offences including serious crime.

### **Understanding the needs of victims and witnesses**

The treatment of victims and witnesses is a complex area. Despite much good work that has been delivered, research shows that a substantial number of victims and witnesses who come into contact with the justice system are dissatisfied with their experience. While 71% of respondents to the Northern Ireland Victim and Witness Crime Survey (NIVWCS) 2010-2011 were satisfied with their contact with the criminal justice system, 23% of all respondents indicated they were dissatisfied; the percentage of victims satisfied was 64% compared to 77% of witnesses. These figures may underestimate the overall nature of the problem as the survey does not include those who have been involved with serious crimes. There continue to be problems, therefore, with how the system treats victims and witnesses.

Research into the needs of victims and witnesses and their engagement with the criminal justice system has consistently highlighted a range of issues. Arising from the field work for this inspection and in reviewing other material (including the work of the Victims' Commissioner in England and Wales) Inspectors assessed the main and broad areas of victim needs as follows:-

- A single point of contact and access to regular information and updates;
- Speedy case progression (meaning the justice system needs to get to grips with the problem of avoidable delay);
- Access to specialist support services;
- Consistency of service across the justice organisations and indeed within the same organisation on occasion; and
- To have equal rights and status as others in the justice system.

#### Reporting, investigation and referral

At the time of inspection, Inspectors found that the Police Service of Northern Ireland (PSNI) focus on victims and witnesses (and on customer relations) was too often left to the determination of individuals and thus to significant variations. Inspectors considered that a change in culture with more emphasis on customer care and interpersonal skills was needed to further improve the position of victims and witnesses. Central to this is the ability of victims and witnesses to contact police and to receive information and updates about their case. While we acknowledge a great deal of very good work is undertaken by Police Officers on a daily basis, the aim must be to ensure that this is more consistent across the Service.

Building on the issue of cultural change, the report identifies that additional police training beyond the post-foundation stages was patchy and we recommend such training is considered as a wider part of embedding the kind of cultural shifts required. Despite the findings of Inspectors, we acknowledge there was positive evidence of victim focused initiatives in some police District Command Units. However, such positive initiatives were found to lack central co-ordination, evaluation and control.

We also acknowledge key changes since the inspection began which are aimed at improving customer service and which are now being actively advanced by the PSNI. This includes the 10 policing commitments published by the PSNI in April 2011 together with the R4 project. Over the longer term we hope to see these initiatives resulting in clear and sustained improvement of outcomes for victims and witnesses.

### **The process of prosecution and its impact**

In terms of the prosecution process there have also been some very significant positive steps taken to bring an enhanced focus to the services provided for victims and witnesses. However, once again it was apparent there were some gaps and inconsistencies in the delivery of that service. One such issue surrounds the allocation of lead responsibility and accountability for victims and witnesses between agencies. While this is not the sole responsibility of the Public Prosecution Service, it is at this juncture in inter-agency working that these matters become most acute. Fixing lead responsibility will mean that agencies, practitioners and ultimately victims and witnesses will benefit from the clarity that would bring.

The PPS have established dedicated Community Liaison Teams (CLTs) who provide a range of services to victims and witnesses involved in Magistrates' and Youth Court cases. This includes being a contact point for victims and witnesses who have queries concerning the overall prosecution process and the progress of their specific case. Such developments since the first CJI inspection are welcome steps. However, currently the CLTs services are limited and do not operate at Crown Courts, where the most serious cases are heard. In these courts the PSNI provide referrals to support agencies for victims and witnesses, and in serious cases victims and witnesses are supported by Police Family Liaison Officers (FLOs). In effect then, two business process streams are running necessarily different systems insofar as the care of victims and witnesses are concerned.

### **Supporting victims and witnesses through the courts**

In respect of the treatment of victims and witnesses at court, there are a number of disparate elements and agencies involved at various stages in this small part of the journey through the criminal justice system. As in other areas, the responsibilities and accountability of individual agencies are not clear either to victims, nor indeed amongst the agencies themselves.

One of the most frequent and significant concerns heard by Inspectors was of delays. In common with other agencies, the Northern Ireland Courts and Tribunals Service (NICTS) has appointed Case Progression Officers (CPOs) to work with other criminal justice agency officials and the Judiciary to minimise delay in the criminal courts. CPOs provide support and work with other agency representatives to ensure that all procedural matters are effectively progressed by the parties in the case. Again, this is a welcome step forward, but the work of CPOs is impaired by other interests, such as a lack of co-operation from some defence practitioners and a lack of formalised case management systems.

### **Victim and witness services**

It is apparent that many ordinary victims and witnesses need help and support as they navigate the criminal justice process. Victim Support Northern Ireland (VSNI) is the principle vehicle for delivery of that service in the vast majority of cases. There are two points of referral for victims and witnesses to VSNI. The first occurs when a crime is reported, subject to victims opting out. The second occurs when a case is proceeding to court. In both cases there have been significant improvements, but some difficulties remain; meaning that some in need of support are not referred. In addition, in order to support and assist those experiencing particular complexity in the criminal justice system, Inspectors felt that advocacy services should be developed further.

Inspectors found that there were no clearly understood mechanisms surrounding the issue of community or victim impact statements. Subject to some limitations, Inspectors view the use of codified schemes in Northern Ireland as worthwhile in giving victims and communities a voice, and enhancing the role of victims throughout the criminal justice process.

A number of post conviction Victim Information Schemes (VIS) are designed to provide victims with information post-court regarding sentences, releases and to ensure probation orders are in place. In their own right, each operates without any significant concern, but Inspectors felt that three different schemes operated by three different agencies had the capacity to cause

confusion for victims and could also be operated more efficiently and effectively under one lead agency.

### **Governance, inter-agency working and performance**

Issues of cross-cutting criminal justice service delivery, including the provision of care for victims and witnesses, is strategically co-ordinated and managed through the work of the Criminal Justice Board. It was apparent to Inspectors that the issue of victims and witnesses has had an increasing visibility and emphasis among the issues considered by the Criminal Justice Board, however, the precise role and accountability of the Criminal Justice Board is unclear. As we have previously highlighted (CJI report on 'Avoidable Delay', June 2010), the CJB's own members described themselves as a 'voluntary coalition' who meet to discuss areas of mutual concern. The Criminal Justice Board has no executive function or authority. While the Criminal Justice Board is chaired by a senior civil servant in the DoJ, there is no mechanism to hold individual agencies to account.

Some of the difficulties in monitoring, reporting and in general victim and witness care have already been recognised by members of the Criminal Justice Board. For example, the need to put in place more effective reporting mechanisms between the Criminal Justice Board and the Victims and Witnesses Steering Group (VWSG). At the time of inspection, the Steering Group only reported formally on an annual basis to the Criminal Justice Board and otherwise, by exception. In addition, the Criminal Justice Board's 'victims' champion' who was spoken to by Inspectors, advised that the role of 'victims' champion' was ill-defined and understood across the entire criminal justice system. Inspectors regard this role as vitally important in ensuring that the issue of victims is kept at the forefront of all Criminal Justice System work and further in ensuring that across the Criminal Justice System the needs of victims can be supported.

While Inspectors found some examples of excellent communication between agencies, fieldwork also confirmed there are gaps in communication at some stages of the process; thus impacting on service delivery for victims and witnesses, the statutory agencies and the voluntary sector support bodies. Inspectors found that the development of some victims and witnesses initiatives are currently concentrated on single agencies and do not routinely examine the issues in terms of the total impact and outcomes for victims and witnesses. Inspectors were thus concerned that the current structures, reporting mechanisms and dynamics were such as to create impediments to enhanced delivery and outcomes for victims and witnesses.

While we acknowledge that the VWSG is doing and has done vital work, in order to further enhance its role Inspectors have recommended that the current VWSG should be re-constituted. We recommend that incorporated amongst its membership should be senior executives from each of the main criminal justice system agencies. These senior executives, as core members, should also be appointed as individual agencies 'victim's champions' and should report to and assist the CJB 'victim's champion' with overall responsibility.

### **Conclusions**

Despite the very good progress and the significant work either under way or planned, there remains a significant challenge to all in the criminal justice system to ensure an appropriate seamless, efficient and effective service for victims and witnesses is delivered within a framework of policies and initiatives which are co-ordinated, and deliver positive outcomes for victims and witnesses. The recent Code of Practice for victims is an example of a welcome step in the journey, but continual review and improvement, together with robust monitoring of the commitments within the Code must become customary if it is to realise its potential.

Inspectors also concluded there is a need for an overall tangible cultural shift from 'system' to 'service' and to greater customer care, understanding and interpersonal skills across the criminal justice system. The danger of professionals becoming process driven and de-

sensitised to the needs of victims and witnesses must be avoided. This matter, and the other recommendations made in this report, should help to bring the needs and concerns of victims and witnesses closer to the centre of all actions undertaken within the criminal justice system; from strategy and policy through to front line service delivery.

## Recommendations

### **Strategic recommendations**

1. In terms of delay Inspectors point to the recommendations made in their report 'Avoidable Delay' (published June 2010) and repeat those recommendations insofar as they remain vital to improving the experiences of victims and witnesses. (Paragraph 4.37)
2. Inspectors recommend that case management is placed on a statutory footing with timescales, sanctions and incentives designed to deliver the most efficient and effective case progression. The DoJ should ensure the issue is included in their strategic action plans and progressed by 31 May 2012. (Paragraph 4.41)
3. Inspectors recommend that the current Victim & Witness Steering Group should be re-constituted and incorporate amongst its membership senior executives from each of the main criminal justice system agencies. These senior executives as core members should also be appointed as the individual agencies 'victim's champions'. Importantly, the VWSG should report directly to the Minister and the Criminal Justice Delivery Group on issues concerning victim and witness care and treatment, while at the same time keeping the Criminal Justice Board advised of its work. (paragraph 6.20)
4. Inspectors recommend the reconstituted VWSG oversee the establishment of Witness Care Units in Northern Ireland but led by the PPS and using the existing Community Liaison Teams as the core basis for delivery. Inspectors consider that an amalgam of PPS liaison teams, elements of the PSNI R4 model (in terms of victim contact and updating), NICTS case progression officers and Victim Support Northern Ireland can provide a vehicle to achieve a Witness Care Unit ('one stop shop') facility which will significantly enhance the experience of victims and witnesses. (Paragraph 6.52)
5. Inspectors recommend the amalgamation of all post-conviction Victim's Information Schemes under the supervision of the Probation Board Northern Ireland (Paragraph 5.65)
6. In order to address the needs of victims who do not engage the criminal justice system, have difficulty accessing criminal justice services, need help beyond the period when the criminal justice process has ended or who need specialist assistance for reasons of vulnerability the DoJ should further develop advocacy services. (Paragraph 5.13)

### **Operational Recommendations**

The report also makes 12 operational recommendations including:-

- 1 On the matter of post-foundation training Inspectors recommend the PSNI examine how they deliver appropriate victim focused refresher training to Officers who are routinely engaged in public response.
- 2 Inspectors recommend that the Criminal Justice Board introduce guidance on a Victim Impact Scheme in Northern Ireland and that the lessons learned from the implementation of the Victim's Personal Statement in England and Wales are considered in doing so. Once agreed the guidance should be available to the public.
- 3 Inspectors recommend that the DoJ works with NICTS and Victim Support Northern Ireland to develop a clear system of voluntary referrals and thus support for victims/ victims' families and other witnesses who attend Coroners' Courts.
- 4 Inspectors recommend that the broad demarcations of lead responsibility for victim and witness care in the criminal justice system be firmly established and followed as follows:-
  - Report to decision to prosecute – PSNI; and
  - Decision to prosecute to disposal – PPS.

The Report also makes 12 suggestions for improvement.



# Notes of informal meetings with individuals and families

## Committee for Justice Inquiry into the Criminal Justice Services available to Victims and Witnesses of Crime

### Record of Issues Raised by Individuals at Informal Meetings

#### (1) Informal Meeting on 28 February 2012 – Ms Robin

The Chairman and members of the Committee for Justice met with Ms Robin, the sister of Tony Robin, who was murdered on 11 May 2009.

#### Issues raised included:

##### Public Prosecution Service

- She was critical of the Public Prosecution Service (PPS) and felt that officials never engaged with the family.
- She also questioned why the PPS did not query the leniency of the sentence given that it was the lowest that could be handed down. On the day of sentencing, the PPS did not ask for the family's view of the sentence, whether they understood or had any questions, or offer advice on whether the family had the opportunity to question or appeal the tariff. They never spoke to, or approached the family in any way.
- She felt that lack of communication was a major issue and stated that she made a point of attending all court appointments as the only way of keeping herself informed.
- She highlighted that she was only told about the arraignment on the day before it occurred and that this was also when the PSNI Family Liaison Officer was informed.
- She indicated that she attended a mention of the case in the court and talked to a police officer involved with the investigation who told her that the Police attended the court as a way of finding out what was going on with the prosecution.
- All the victim's family attended court on the day they were told the tariff would be given only to be informed that it wouldn't be happening that day.

##### The Court Environment

- She found the Court to be a very formal environment and she did not feel that she could ask any questions.
- She also got the impression that, as the victim's family, they were in the way.
- She felt that the lay out of the court didn't facilitate victims and their families.
- There were also issues about the proximity with the defendants family:
  - the defendant's family made accusations of being kicked by a member of the victim's family.
  - on the day of arraignment when the accused got off, the defendant's family taunted the family of the victim. The accused was arrested at the scene and has been in prison since. When the defendant pleaded not guilty, her supporter's again verbally abused the victim's family outside the court building.
- She indicated that she made a Victim Impact Statement but didn't feel it was of any use. The family submitted five statements but felt they were of no interest to the judge as he misquoted from them.

- She expressed the view that there was too much consideration given to the defendant, that the accused wasn't penalised for causing delays throughout the case and that the Judge didn't take the opportunity in his summing up to chastise the accused for wasting the court's time.

### **The PSNI**

- She felt that there was very little support from the Police when her brother was killed including those police officers on duty when she contacted them. She also highlighted a series of communication failings at the time of the death: She felt that the police officers who arrived at the scene behaved in an unprofessional and uncaring manner and did many things incorrectly. She did however go on to commend the Murder Investigation Team whom she felt carried out a professional and thorough job, and helped the family in any way they could.
- She or her mother were not informed of the death but instead were told by third parties.
- She had to phone the police station herself to arrange to identify the body. She called the police switchboard and asked to be put through to someone who could confirm what had happened to her brother, if he was dead and where his body was.
- Her other brother and his partner were taken away as witnesses and were told that the rest of the family were informed about what had happened and that the family were now at the hospital - but no communication had taken place.
- Her brother's son was taken away as a witness but his mother was not informed.

## **(2) Informal Meeting on 1 March 2012 - with parent of a teenage victim of crime**

The Chairman met with the parent of a teenage victim of crime to discuss the experience of the child's journey through the criminal justice system including a Youth Conference, and the parent's perspective in supporting the child through the process. The teenager was a victim of Grievous Bodily Harm perpetrated by other youths.

### **Issues raised included:**

#### **Communication**

- Lack of pro-active communication from a number of the criminal justice agencies. While the PSNI communicated well regarding the timescale for passing the file to the PPS there was no communication from the PPS until the parent contacted that organisation almost 6 months later. The parent had to continually '*chase information*' to be kept informed of case progression, particularly in relation to court dates. The family were not advised of a bail hearing and subsequently failed to be present in court to hear bail conditions – information could not be released later to the victim's family even though these were read out in public session. The parent was advised that the bail conditions could be released in response to a media enquiry.
- Failure to communicate information effectively, i.e. use of 'legal speak', reluctance to communicate information in layman's terms that could be more easily explained to a child and senior prosecutor too busy to talk to the family.
- Incorrect information provided to parent regarding youth conferencing outcomes ie the period of rehabilitation for and offence of GBH by a minor.

#### **Support**

- Lack of adequate support - despite registering with VSNI and NICTS Witness Service, the victim was not proactively contacted prior to court hearing. NSPCC were alerted to the

victim's age by the PPS and met with the family to talk through the process and to view the video link etc.

- Lack of legal advice – advised that they did not need a solicitor as, while the PPS does not represent the victim, it would look after their interests. In hindsight the parent believed that having their own legal advice could have prevented some of the issues that arose.

#### **Unbalanced treatment of victims and defendants**

- Perceived inequitable treatment between victims' and perpetrators' rights – eg in youth conference, a report and plan are provided to the court and offenders but these are not pro-actively shared with the victim. Only through the parent's insistence was this information shared, and wording in the report which the parent perceived misrepresented the victim's side and inaccurately described his demeanour was subsequently changed. The family were also given the wrong information regarding the outcome options.
- This is also the case in relation to copies of statements, victims do not receive copies of statements made by the accused in advance of court proceedings, yet the defendants receive copies of all statements made by victims and witnesses.
- The Youth Conference had five people on the defendant's side including the defendant, a solicitor, a youth worker and a parent, while on the other side was one person - the parent of the victim.
- The Youth Conference Report recommendation was reduced by the Judge to 160 hours community service with no explanation given in court.

#### **Sentencing**

- Parent and child felt sentencing did not reflect gravity of crime.

#### **Accountability**

- Concerned that there is no external body with whom to register a complaint in relation to criminal justice organisations and that only a system of self-regulation and appraisal appears to be in place.

### **(3) Informal Meeting on 6 March 2012 – Ms Philips**

The Chairman and Members of the Committee for Justice met with Ms Philips on 6 March 2012 to discuss her personal experience of the criminal justice system in Wales and how this compared with the experiences of victims and witnesses of the criminal justice system in Northern Ireland.

#### **Background**

Ms Philips explained that she had lived in Wales for 10 years. One day she was called to her daughters' school and her two daughters informed her that their father was sexually abusing them. The school immediately contacted the police on her behalf and she reported the matter. Later that month she returned to Northern Ireland with her daughters and son. Her husband was subsequently convicted of the offences, having pleaded guilty on the day of the trial, and received a 9 year sentence.

Ms Philips was aware of the experiences of victims of the criminal justice system in Northern Ireland through attendance at meetings of support groups and a personal friend's experience. She wished to highlight to the Committee how the handling of her case by the criminal justice system in Wales differed from that of victims in Northern Ireland.

#### **Experience of the criminal justice system in Wales**

- A fast track system operates so that any case of sexual abuse is dealt with by the court within 6 months.

- Within 1 ½ hours of her daughters reporting the abuse on 5 June they had been taken to the Child Protection Unit to give videotaped interviews and forensic officers where in the family home checking for evidence. Her husband was arrested later that day.
- The following day (6 June) her daughters were taken to hospital, with a social worker in attendance, for forensic examinations. Later that night her husband was charged and remanded in prison.
- By the middle of August all the forensic evidence was completed as required to ensure a trial could take place within 6 months.
- The trial was due to take place on 3 November – on that day her husband pleaded guilty. He was sentenced to 9 years on 3 December.
- The case was completed within the 6 month timeframe.
- The support provided to her and her family during the process was superb and the Child Protection Unit provided information on progress at every stage of the case and where in constant contact with her. This was despite the fact that she and her family returned to Northern Ireland in late June. She emphasised that the contact was proactive and she never needed to ask for information.
- The Welsh authorities arranged for them to be met by a social worker on their return to Northern Ireland.
- She felt that the joined-up approach and constant contact and liaison between the Child Protection Unit and Social Services in Wales contributed greatly to the support and information she received. They also kept in constant contact with Social Services in Northern Ireland.

#### **The experience of victims of the criminal justice system in Northern Ireland**

While not having first-hand experience of the criminal justice system in Northern Ireland she was aware through attendance at support group meetings and a friend's experience of the difference in their experiences which included:

- Little or no information being provided by the criminal justice organisations on what is happening or what action, if any, is being taken in relation to their case.
- A total lack of support and assistance for victims of crime including victims of sexual abuse and murder.
- No urgency whatsoever shown by the criminal justice organisations in progressing cases – some cases take years to reach a conclusion. To illustrate she contrasted the handling of a friend's case where his daughter had reported claims of sexual abuse with her own family's case. In her friend's case it took 2 weeks to arrange for the police to interview his daughter (on one occasion the interview was cancelled at very late notice) and 7 weeks later the police had not spoken to the alleged perpetrator. During this time no information or up-dates were provided and the family had to check themselves to find out what was happening.
- She expressed the view that the contrast between her experience and the experience of victims in Northern Ireland was stark and the system here needed to be radically changed.

#### **(4) Informal Meeting 12 March 2012 – Ms P Holloway and Mr J Devlin**

The Chairman and Members of the Committee for Justice met with Ms P Holloway and Mr J Devlin, the parents of Thomas Devlin, who was murdered on 11 May 2009.

Ms Holloway and Mr Devlin highlighted at the start of the meeting that there was an appeal still to be heard in the case.

### **Issues Raised**

They stated that their experience of the PSNI was very positive and they had no issues to raise in that regard.

The issues they did have were with their engagement with the Public Prosecution Service (PPS).

### **Attitude and Treatment**

- They felt that the balance is too much in favour of the accused and that the victim and victim's family have no status in the process. They were told that the PPS was not acting on their behalf and they felt that they didn't belong in the process.
- The PPS adopted a very cold and patronising attitude towards them.
- They decided to get their own legal advice after the first meeting with the PPS but not everyone is in a position to be able to do this.
- The PPS did not proactively provide information.
- They felt that nothing would have happened in the case had they not got a meeting with the PPS and that they were only granted a meeting because they were media aware and had raised the profile of the case.

### **Reviews of the decision not to prosecute the case**

- They never received a satisfactory reason as to how the decision not to prosecute was reached.
- The PPS kept stating why they would not prosecute rather than being prepared to discuss/consider evidence and information the family brought to their attention.
- They received information about the first review of the case from the PPS after they were informed by a journalist.
- The first review, which was an internal review rather than one carried out by an external person, only consisted of looking at the summary file rather than all the evidence files.
- They believe that a proper review of the case was carried out and a decision to prosecute was taken following receipt of a letter from them to Baroness Scotland, the Attorney General. However they noted that the late Director of the PPS had informed them subsequently that he had taken that decision.
- The family requested an external review as they felt that the legal profession in NI is a "closed shop" and would not reach a contrary view to the initial decision reached by one of the most senior counsel according to the PPS.
- When granted an external review all the files were read very quickly and a decision given that there was a compelling case to answer.
- They never received clarification of the reasons for the change from the decision to not prosecute to the decision to now prosecute.

### **Areas for Improvement**

- The working relationship between the PPS and the PSNI needs to be overhauled – the PPs appeared to them to be very reluctant to work closely with the PSNI – there is a much closer and more positive working relationship between the CPS and Police in England and Wales in serious crime/murder cases.
- The court process needs to be looked at in an effort to make the whole process from beginning to end shorter and more efficient but no one seems to be prepared to make changes.
- There needs to be significant changes to the culture within the PPS and the approach it takes to victims and their families. There are lessons to be learned from the CPS

approach which takes a more supportive and proactive approach to seeking justice for victims. In addition the CPS will prosecute a case with a lower threshold of possibility of success i.e. it is less risk averse in its approach to prosecution. The information on seeking a review was not easily found on the PPS website at that time.

- The PPS needs to adopt a much more urgent approach to moving cases along instead of the leisurely attitude currently taken.

## (5) Informal Meeting on 16 March 2011 – Eagleson Family

The Chairman and a Member of the Committee for Justice met with Mrs H Eagleson, Ms R Eagleson, and Mrs M Eagleson, the mother, sister and grandmother of Erin Eagleson who died in a vehicle collision on 5 July 2009.

### **Issues raised included:**

#### **Dignity and Respect**

The Eagleson family described experiences which they felt demonstrated a lack of empathy and respect for the dignity of bereaved families.

- One of these experiences occurred on the day of Erin's death. Erin Eagleson was killed on a Sunday morning. Mrs Eagleson was advised that the mortuary at the Royal Victoria Hospital, Belfast was closed on Sundays and she could not therefore have access to her daughter's body. Mrs Eagleson was eventually permitted access after much insistence. The family have pursued this matter with the Coroners Service for Northern Ireland and have been advised that the situation was being reviewed and should not have happened in the first place.
- Another example was when a court date was set and then cancelled. The family was advised that the Judge was not available as he was involved in interviews for Judges and they felt this was an example of the low priority given to victims and the families of victims in the criminal justice system.
- The Judge (who was mainly thoughtful and considerate towards the family) when referring to the Victim Impact Statement described Erin's mother as her sister. This was then reported in the newspaper that evening and was an unfortunate and basic error which left the family wondering how closely he had been listening to any of the evidence.

#### **Communication**

- Mrs Eagleson highlighted that over the course of the investigation into her daughter's death, responsibility for the police investigation changed hands on a number of occasions. The family found this inconsistency and the resulting requirement for them to retell their story to each replacement investigating officer very difficult.
- The family commended the role of the Family Liaison Officer (FLO) however, felt that as the case progressed, the FLO was not always kept advised or was aware of the most up-to-date information.
- The family experienced a lack of pro-active communication throughout the process and wished to emphasise that families need to be kept updated on a regular basis even if nothing is happening. Mrs Eagleson stated "People are misinformed, ill-informed or not informed at all." Mrs Eagleson also emphasised the need for verbal information to be followed up with written information as people often do not pick up properly what is being said when they are traumatised.
- Mrs Eagleson highlighted the lack of information provided to them on the Intention/ Indication of Sentencing Hearing which they found to be like a mini trial for which they were not prepared. There was also a breakdown in communication resulting in the family not knowing that the Judge had delivered his indication.



- The family referred to a further breakdown in communication regarding a particular court date when the defendant in the case pleaded guilty. The family had no prior indication of this possibility and consequently a number of family members (who would have wished to be present) were absent from court. The family described the very devastating effect this had on them.
- Mrs Eagleson stated the importance of the sensitive use of language when communicating with victims, witnesses and bereaved families. References were made to the road traffic 'accident' rather than 'collision' which caused offence and hurt as the use of the word 'accident' suggests no one has any responsibility.

### **Support**

- Mrs Eagleson highlighted the information booklet provided by the charity 'Brake' as a positive example of the type of information that is useful and practical for bereaved families. Brake is a road safety charity that works to stop death and injury on roads and to support people who have been bereaved or injured by a road crash. The family recommended that the type of literature provided by Brake is adapted to provide regional specific information.
- The family highlighted the complexity of the judicial system and cited the requirement for clear information on the legal process, the roles and responsibilities of those involved, and an explanation of the legal terms used.
- Mrs Eagleson highlighted the lack of support available to Erin's boyfriend who was driving the car when the collision happened and was a witness in the case. As he was a witness and wasn't considered a victim the FLO had no role in relation to him and the family themselves had to provide support to him.

### **Delay**

- Mrs Eagleson highlighted the length of time it took for the case to be completed – 2 years, 2 months and 22 days – and the impact the long-drawn out process has on families.

### **Laganside Courthouse**

- The family made a number of observations about the layout of the actual courtroom including where they were seated and described the poor facilities offered to victims and witnesses at Laganside Courts as 'horrendous'. The family described poor access arrangements to the Victims Suite, the general unkempt appearance of the room, the lack of privacy afforded to the families present, the poor quality of the facilities available and the insensitivity of staff/volunteers present. The family felt that the facilities offered at Laganside lacked empathy for, and consideration of, the needs of the users and there was a lack of privacy with people able to hear police and barristers discussing cases with witnesses etc.

### **Compensation**

- Although compensation was not a matter that the family wished to pursue, the family had concerns regarding the eligibility criteria in relation to children aged over 18. Mrs Eagleson pointed out that as Erin's eighteenth birthday was six months before the collision there was no entitlement to compensation and said there was something wrong with a system that puts no value on a life just because the person has turned 18.

### **Other**

The family raised a general point about young drivers. Mrs Eagleson in particular, felt that the demonization of young drivers in road safety campaigns was unhelpful and that more thought needed to be given on how to encourage and incentivise responsible driving.

# Committee for Justice Visit to West Yorkshire Witness Care Unit on Thursday 15 March 2012

1. As part of its inquiry into the criminal justice services available to victims and witnesses of crime the Committee for Justice undertook a visit to an operating witness care unit to view the services and facilities that such a unit could potentially provide in Northern Ireland. The 1-day visit to the West Yorkshire Witness Care Unit based in Bradford took place on Thursday, 15 March 2012.
2. The following Committee members attended the visit:
  - Mr Paul Givan
  - Mr Stewart Dickson
  - Mr Sean Lynch
  - Mr Jim Wells

## Background

3. The establishment of a 'one stop shop' facility was recommended in CJINI's 2005 report on the provision of care for victims and witnesses in the criminal justice system, and in its 2011 follow-up report CJJ expressed disappointment that despite the recommendation being accepted and included in the strategic action plans arising, the initiative had not been progressed. In response, the Minister of Justice confirmed his commitment to press ahead with the establishment of Witness Care Units as a single point of contact for victims and witnesses of crime and pointed to the preparatory work being undertaken by PPS and PSNI in relation to the establishment and operation of these Units.
4. At present there are approximately 165 Witness Care Units (WCU) operating in England and Wales. The Witness Care Units manage the care of victims and witnesses from the charging of the defendant(s) through to the conclusion of a case and are jointly staffed by the police and the Crown Prosecution Service. The service to victims and witnesses provided by the WCU include:
  - a single point of contact for victims and witnesses,
  - a full needs assessment for all victims and witnesses in cases where defendants have pleaded not guilty, to identify specific support requirements,
  - dedicated witness care officers to guide and support individuals through the criminal justice process and to co-ordinate support and services,
  - continuous review of victim and witness needs throughout the case
  - greater communication and contact with witnesses about cases including informing them of the case outcome or trial result, thanking them for their contribution to the case and offering post case support from the relevant support agency.
5. West Yorkshire Witness Care Unit was identified for the Committee's visit as it had previously hosted visits for CJINI Inspectors as part of their field work in relation to the 2011 report on '*The care and treatment of victims and witnesses in the criminal justice system in Northern Ireland*' and for a delegation of PSNI and PPS officials as part of the joint scoping work they have undertaken in relation to the establishment of witness care units in Northern Ireland.
6. It was anticipated that a visit to the West Yorkshire Witness Care Unit would allow Committee Members to view at first hand the facilities and services available to victims and witnesses, and to identify how the introduction of WCUs could enhance service for the benefit of victims and witnesses in Northern Ireland.

## Visit Programme

7. The programme for the Committee visit is attached at Appendix A and the details of the key personnel with whom the Committee met is attached at Appendix B. The programme was designed to allow members both the opportunity to meet with the key leads from the criminal justice agencies to discuss the strategic management and operation of the witness care unit and to gain actual experience of the service provided to witnesses by spending some time with on-duty witness care unit officers as they carried out their duties. Committee members also met with the Unit Managers to discuss the practicalities of managing a multi-agency Unit and were accompanied throughout the visit by the Witness Care Inspector who heads the Unit, Inspector Adrian Taylor.

## Key Findings

8. Key findings from the visit to West Yorkshire Witness Care Unit include:
- The post of Witness Care Inspector was created to oversee the strategic management of West Yorkshire Witness Care Unit and works very well.
  - Although originally jointly funded and staffed by the police and the Crown Prosecution Service, the Unit in West Yorkshire now has a reduced percentage of CPS staff and has become exclusively funded by the police service. The Unit is also situated in Police premises.
  - The Unit supports over 12000 non police witnesses and approx. 8000 police witnesses through the trial process. In addition there are several thousand cases each year which are finalised at first hearing, but which receive contact from the WCU.
  - Approximately 750 witnesses per month are contacted by Witness Care Officers to undertake a needs assessment, with arrangements then being made for appropriate assistance to give evidence.
  - At any time, each full-time WCO carries a workload of between 60 - 90 live trials and 200 - 250 cases.
  - All work within the unit is managed and recorded on the National Witness Management System and is part of the National CPS Case Management System. In West Yorkshire this is linked to the NICHE crime recording system providing access for WCOs to investigation and case building information.
  - The importance of the development of effective and cooperative working relationships with the other CJS agencies was emphasised as vital to ensuring the best possible performance and witness support.
  - The Inspector identified that there was increasing pressure due to budgetary constraints to focus only on the statutory functions required to be delivered and this would impact upon service provision and customer satisfaction. He expressed the view that in the current constrained budgetary environment the delivery of non-statutory functions will decrease as organisations concentrate on what they are statutorily required to do.
  - Witness Attendance and Needs Assessments are used as key measurements of WCU performance. West Yorkshire WCU currently has a witness attendance rate that is consistently over 90%.
  - A crucial aspect of the service is to outline to people at the beginning of the process what to expect to enable expectations to be managed and met.
  - The Statutory Code in England and Wales is for victims but not for witnesses which results in the service to witnesses not being as comprehensive. Given many witnesses are not the victims of the crime but are crucial to the criminal justice process it was not satisfactory to differentiate the services provided to each. This was now occurring

due to the non-statutory basis upon which the services to witnesses are based and the increasing pressure on scarce resources.

- Nationally in England and Wales it has been demonstrated that special measures provide better outcomes.
- While not required to do so, the West Yorkshire WCU has taken forward additional support measures such as writing to an employer explaining why the person needs to be absent from work in relation to their case, providing a taxi or police pick-up to take them to court, providing a free childcare place when court crèche facilities are available or providing information/contact points for childcare facilities in the area.
- To ensure continuity of service the WCU has developed good relationships with Victim Support whose volunteers look after witnesses in the Courthouse.
- Following a review the Magistrates and Crown Court facilities provided include private entrances that can be used and separate waiting rooms.
- The Chief Inspector expressed the view that the culture of supporting victims and witnesses is slowly becoming embedded within the criminal justice system.
- Avoidable delay is heavily measured and generally cases progressed through the system swiftly. A preliminary hearing is set and then very quickly a trial date and the case management date is then worked out from that. If the date is not met slippage is minimal. The reduction of avoidable delay in cases is crucial for victims and witnesses.
- Areas for improvement include the need for timelier update of systems with the information and ownership within the CPS of a file rather than a number of people dealing with it.
- The CPS viewed the WCU as beneficial as prosecutors are not specialised in dealing with victims and witnesses – they are legally trained advocates and the lack of necessity to have ongoing direct contact assisted them in being seen as impartial and in doing their job as a prosecutor.
- There is no standard complaints system with each organisation having their own and there is no mechanism to deal with the many complaints that cut across a number of agencies. Currently the Chief Inspector handles these but is not required to do so. Responsibility for who handles joint agency complaints should be clearly established.
- In West Yorkshire once the court date is set the Judge and Court Manager play an important role in ensuring appropriate progress is made and there are protocols and time limits in place.
- The court manager is responsible for ensuring special measures that have been granted are in place.
- The court manager also ensures that as far as possible the target of witnesses waiting no more than 2 hours is achieved and will draw to the attention of the judge those witnesses who have been waiting longer. The achievement of waiting times for witnesses is measured twice a year.
- The police have introduced a ‘three strikes’ rule where if three of the files submitted by an officer have been rejected within 1 month this is considered as part of the performance management system. The view was expressed that a similar process needs to be introduced across the criminal justice system.



Northern Ireland  
Assembly

**COMMITTEE FOR JUSTICE**  
**Programme of Visit to West Yorkshire Witness Care Unit**  
**Thursday 15 March 2012**

0820hrs	Arrive at Leeds /Bradford Airport - to be met by Inspector Taylor
0930hrs	Overview of Unit Issues – Inspector Taylor
1100hrs	Meet Unit Managers – practicalities of managing a multi-agency Unit
1200hrs	Buffet Lunch in Unit conference room – meet strategic leads from Police, CPS, HMCTS, & Victim Support
1300hrs	Meet with Witness Care Officers - to experience the actual service provided to witnesses
1400hrs	Mop-up discussions
1500hrs	Depart Unit for Leeds/Bradford Airport

## Appendix B

### West Yorkshire Witness Care Unit Personnel

1. The Committee's visit to West Yorkshire Witness Care Unit is being hosted and arranged by **Inspector Adrian Taylor** who is the Witness Care Inspector for the Unit.
2. Whilst Members will have the opportunity to meet Unit operational staff throughout the course of the visit, arrangements have also been made for the Committee to meet (during a working lunch) with the key personnel who have strategic lead responsibilities. These are:
  - **Chief Superintendent Simon Willsher**  
West Yorkshire Police Head of Local Policing Support
  - **Julie Zunda**  
West Yorkshire Police Local Policing Support Unit Manager - CJ Strategic Lead
  - **Argyro West**  
Crown Prosecution Service – District Crown Prosecutor – Area Victim Champion & Strategic Lead for WCU issues
  - **Valerie Watson MBE**  
HMCTS – Bradford Crown Court Manager - Area Witness Champion for North and West Yorkshire
  - **Nikki Broadhead**  
Victim Support – Senior Service Delivery Manager – Area Victim Champion



# CJINI – Revised Criminal Justice Board Action Plan

Criminal Justice Inspection  
Northern Ireland  
*a better justice system for all*



18 May 2012

Christine Darrah  
Clerk, Committee for Justice  
Northern Ireland Assembly  
Room 242, Parliament Buildings  
Stormont  
Belfast BT4 3XX

Dear Christine

## **CJI Report on the Care and Treatment of Victims and Witnesses in the Criminal Justice System**

I refer to your letter of 15 May 2012 on behalf of the Justice Committee. At the outset, I thank the Committee for the opportunity to comment on the victims and witnesses action plan. The development of robust action planning is an integral part of the implementation of CJI recommendations and I am pleased that CJI have the opportunity to assist in their development. I believe we can assist the Committee in this important area of oversight and welcome the opportunity to do so.

I have already provided the Department of Justice with assistance in making the action plan as meaningful as possible and Inspectors have engaged directly with the Department for that purpose. The action plan is certainly more robust than that first seen by CJI and provides a firmer platform for moving forward than was the case with the previous response.

I hope the Committee will find it helpful if I comment only by exception, on those areas in the action plan where there may still be matters of concern on the part of Inspectors. These comments have been shared with the Department of Justice as part of our early commentary on the Action Plan.

### **Strategic Recommendation No 2:**

CJI consider that incorporating comment here regarding statutory time limits confuses the issues. We remain of the view that statutory case management, such as is the case in England and Wales, will prove beneficial. Notwithstanding that if the Lord Chief Justice's practice direction is to be used as the vehicle to deliver improvements CJI would wish to see clear expressions of how and when the outcomes from the practice direction will be reviewed and/or evaluated.

In addition, I would add that further inspection work reaffirms our view that statutory case management, if energetically applied, could have an overall positive effect in delay, and on victims and witnesses. There is a clear distinction between statutory case management and the introduction of statutory time limits.

### **Operational Recommendation No 2:**

Inspectors welcome the commitments made by the PSNI in respect of this matter. However, it appears to me that a three year timeframe for implementation of the recommendation may be unduly prolonged and subsequently might have a detrimental impact on the experience of victims and witnesses.

### **Operational Recommendation 5:**

The response to this recommendation has changed little from its original form and in large measure fails to address the specifics of the recommendation. Inspectors previously commented:

*'The purpose of this recommendation was to ensure a focussed concentration by the PPS on specific training regarding the care and treatment of victims and witnesses. The actions set out seem to be a restatement of what is already included in training plans. While CJI acknowledges that some of these issue impact on the care and treatment of victims and witnesses, the actions fail to address explicit issues and outcomes from dedicated training. For example, who will be trained, when, what outcomes are expected.'*

### **Operational Recommendation number 11:**

This recommendation was fundamental to a significant number of the adverse findings by Inspectors and I remain concerned at the response to this recommendation. I am of the view, as we say in our inspection report, that broad demarcations of responsibility are essential to moving forward. Inspectors were well aware of the involvements of both the PSNI and the PPS pre and post decision to prosecute and do not accept that the recommendation is 'unduly simplistic'. Evidence was and remains clear that lead responsibility and accountability needs to be firmly fixed.

### **Areas for Improvement number 5:**

The comments of Inspectors at operational recommendation number 2 are relevant to consider in the context of this matter, given that the action plan cross refers also to the issues of police training. Again a three year time frame for implementation of the recommendation may be unduly prolonged and subsequently might have a detrimental impact on the experience of victims and witnesses.

Finally, it is important that the Department's expected new five-year strategy for victims and witnesses adequately reflects all the issues, including those concerns we have raised in the inspection report and action plans. We await that five-year strategy which I am advised will be issued soon.

Of course, as is the case with all inspections, CJI will return to re-visit the recommendations and the action plan by way of a follow-up review. I expect this will take place in mid 2014.

I trust the Committee find this helpful.

Yours sincerely

A handwritten signature in black ink that reads "Michael". The script is cursive and fluid.

**Dr Michael Maguire**  
**Chief Inspector of Criminal Justice in Northern Ireland**





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