FROM THE OFFICE OF THE JUSTICE MINISTER



Minister's Office Block B, Castle Buildings Stormont Estate Ballymiscaw Belfast BT4 3SG Tel: 028 90529272 private.office@dojni.x.gsi.gov.uk

Our ref SUB/1411/2012

FROM: BARBARA MCATAMNEY

DATE: 06 SEPTEMBER 2012

TO: CHRISTINE DARRAH

Summary

Business Area: Access to Justice.

Issue: Departmental response to the Committee's Inquiry into the criminal justice services available to victims and witnesses of crime in Northern Ireland.

Restrictions: None.

Action Required: Committee Members to note.

BACKGROUND

1. Before the summer recess, the Committee published the report of its inquiry into the criminal justice services available to victims and witnesses of crime in Northern Ireland. The Minister welcomed the publication of the Committee's report at the Assembly debate on 3 July, at which time he broadly endorsed the report's



conclusions and gave an undertaking that the report would substantially inform the development of the proposed new five-year strategy for victims and witnesses.

2. The recommendations made in the report have now been considered by the Department, in consultation with the criminal justice agencies and our voluntary sector delivery partners.

3. The Minister appreciates the Committee's thoughtful and thorough approach to this inquiry and the considerable amount of work that has been undertaken. He regards the inquiry report as a significant achievement, and welcomes the firm consensus that has been achieved among all of the parties represented on the Committee regarding the agenda for change in victim and witness services.

KEY ISSUES

- 4. The key issues highlighted in the Committee's report were:
 - the need for statutory entitlements for victims and witnesses and mandatory training for all criminal justice agencies which interact with victims and witnesses;
 - support for the creation of witness care units and a formal victim impact scheme;
 - improvements to communications, accountability, support provisions and special measures;
 - improvements to how witnesses are managed in court, including better court facilities and statutory case management;
 - the need to review the operation of the existing compensation schemes; and
 - the need for additional research.



5. The Department is happy to accept, either outright or in principle, all of the recommendations put forward by the Committee. Appendix A outlines the Department's response to each of the specific recommendations. This includes how these are to be progressed and the lead body for each recommendation. The principal delivery mechanism will be the new five-year strategy for victims and witnesses of crime, though some of the recommendations will be taken forward as separate strands of work.

NEXT STEPS

6. Subject to the Committee's views on the Department's response to its inquiry report, we would propose to brief the Committee on the draft five-year strategy in October, prior to the launch of a public consultation. Officials would also be happy to attend to give evidence regarding any of the issues covered in this paper if the Committee would find that helpful.

7. Any necessary legislative changes to give effect to the Committee's recommendations would most likely be taken forward in the Faster, Fairer, Justice Bill. This should be introduced into the Assembly in 2013.

BARBARA MCATAMNEY DALO

RESPONSE TO THE RECOMMENDATIONS CONTAINED IN THE JUSTICE COMMITTEE INQUIRY REPORT

	Recommendation	Response	
The	The Status and Treatment of Victims and Witnesses		
1	The Committee therefore recommends that a Victim and Witness Charter providing statutory entitlements for	Status: Accepted	
	victims and witnesses in terms of information provision and treatment should be introduced in the next available	Lead: DOJ	
	Justice Bill. The Charter should, as a minimum, cover	Comment:	
	the following entitlements:	A Victims Charter providing statutory high-level entitlements will be introduced	
	 Be treated with dignity and respect; 	in the "Faster, Fairer Justice" Bill. This will take account of the forthcoming EU	
	 Receive information on the progress of their case and the reasons for any delay at identified key milestones 	Directive on the rights, support and protection of victims.	
	in accordance with the timescales set out in the Code of Practice;	A Witness Charter will also be developed.	
	 Be informed about the outcome of their case in accordance with the timescales set out in the Code of Practice; 	Work on creating both charters will be taken forward through the Victim and Witness Strategy.	
	 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.	Status: Accepted Lead: DOJ Comment: The Code of Practice for Victims will be revised to reflect the overarching commitments, new service developments (for example, Victim and Witness Care Units, Intermediaries Schemes, Victim Impact Scheme), and the EU Directive on the rights, support and protection of victims. This will be taken forward in the Victim and Witness Strategy.
3	The Committee also recommends that the same statutory rights should be afforded to bereaved families.	Status: Accepted Lead: DOJ Comment: The forthcoming EU Directive on the rights, support and protection of victims will propose additional rights for families (including bereaved families) and we will give full effect to these. This will be taken forward in the Victim and Witness Strategy.
4	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.	Status: Accepted Lead: DOJ Comment: Independent complaints mechanisms already exist for each of the criminal justice organisations and our voluntary sector partners, VSNI and NSPCC. The existing Code has been amended to include all independent complaints mechanisms in one section.

		We will ensure, through the further revision of the Code of Practice for Victims, that we communicate more clearly how to access the independent mechanisms and also explore ways of making the independent complaints mechanisms more accessible and seamless for victims and witnesses. This will be taken forward in the Victim and Witness Strategy.
5	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.	Status: Accepted Lead: DOJ Comment: The Department will liaise with the criminal justice organisations to identify an appropriate training option to ensure that all new staff who interact with victims and witnesses and those not already trained will receive mandatory training on the care and treatment of victims and witnesses. Refresher training will also be provided. This will be taken forward in the Victim and Witness Strategy.
Sing	gle Point of Contact – Witness Care Units	
6	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	Status: Accepted Lead: PPS in partnership with PSNI
	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.	Comment: The PPS and PSNI are committed to the establishment of Victim and Witness Care Unit(s). To that end a full project plan has been agreed not only by PSNi but also by partner agencies including PBNI, DOJ and Victim Support NI. A Programme Board has been established to oversee delivery of the Victim and Witness Care Unit (VWCU) and a project team assigned to implement the VWCU Pilot for the Belfast region. This Pilot will commence in November 2012 in relation to Magistrates' Court, Youth Court and County Court cases. This will

7	The Committee recommends that Witness Care Units covering all the court regions should be established by December 2013.	be extended to the Crown Court by March 2013. One of the principal benefits which the new arrangements are expected to deliver is the 'single point of contact' concept. The initial interaction with the victim/witness will be a 'particular needs' assessment carried out by PSNI at the investigative stage. This will include information in relation to eligibility for special measures, existence of a disability etc, which will be passed to PPS. The VWCU will provide information throughout the prosecution process, from receipt of a police investigation file, to the conclusion of the case, including information in relation to any appeals process and post conviction information, such as information in relation to the PRVIS Scheme and referral to PBNI. This will be taken forward in the Victim and Witness Strategy. Status: Accepted in principle Lead: PPS in partnership with PSNI Comment: The PPS in partnership with PSNI aim to have Victim & Witness Care Units established by December 2013 and this forms a core element of their plan for the management of victims and witnesses. This will be taken forward in the Victim and Witness Strategy
Сог	nmunication and Information Provision	
8	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	Status: Accepted Lead: DOJ Comment: We will take these additional points into account during the revision of the Code of Practice for Victims.

	 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. 	This will be taken forward in the Victim and Witness Strategy.
9	The Committee recommends that victims should be entitled to receive a transcript of bail conditions including any variations set by the Court for offenders.	 Status: Accepted in principle Lead: PPS in partnership with PSNI Comment: As part of its remit, the VWCU pilot will keep victims informed about bail. However, the Magistrates' Court is not a court of record and transcripts are not automatically available. The circumstances in which information will be shared and the mode of communication will depend on the victim's preferences, and our work to deliver this is being taken forward as part of the wider programme to establish VWCU(s) for Northern Ireland In respect of variations, for the purpose of the pilot, it is intended that the victim will only be informed about material variations of bail conditions. This will be taken forward in the Victim and Witness Strategy.
10	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	Status: Accepted Lead: DOJ

	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.	Comment: Work has already been completed on mapping the criminal justice process for victims. We will build on this work to produce a flowchart that can be issued to victims. This will be taken forward in the Victim and Witness Strategy.
Acc	ountability	
11	The Committee recommends that the Corporate and Business Plans for each of the criminal justice	Status: Accepted
	organisations should reflect their commitment to and actions for improving the services provided to victims	Lead: All criminal justice organisations
	and witnesses and should include an objective relating to	Comment:
	victim and witness satisfaction levels.	The criminal justice agencies have agreed to implement this recommendation. Victims Champions will take the lead.
		This will be taken forward in the Victim and Witness Strategy.
12	The Committee recommends that each criminal justice organisation should have measurable standards and	Status: Accepted
	mechanisms to monitor and assess delivery of services to victims and witnesses and satisfaction levels on an	Lead: All criminal justice organisations
	annual basis and the results should be published on their	Comment:
	websites.	The Department will work with the criminal justice organisations to ensure that a
		consistent method of gathering information on victim and witness satisfaction levels is put in place.
		This will be taken forward in the Victim and Witness Strategy.
Sup	port Provisions and Special Measures	
13	The Committee recommends that a comprehensive formal assessment process should be introduced to	Status: Accepted

identify the needs of individual victims and witnesses in relation to special measures and other support	Lead: PSNI
revisited and revised as necessary as the case progresses. This is particularly important for victims and witnesses of serious crime.	Comment: PSNI supports this recommendation and some initial work has already been completed.
	PSNI service training and supporting guidance has been delivered to ensure from the outset that investigators recognise, consider, evidence and/or record victim and witness needs in respect of any vulnerability, intimidation issues and/or particular needs/support requirements. This information is communicated and evidenced to the Public Prosecution Service (PPS) in circumstances where an investigation file is necessary and is put forward both for prosecutorial direction and any special measures considerations in respect of the victim and/or witness.
	The establishment of a VWCU in November 2012 will provide victims and witnesses with a single point of contact within the criminal justice system bringing about a more efficient and consistent approach to the management of victim and witness needs as their case progresses.
	A 3 stage approach is being taken to victim and/or witness needs assessment.
	The first stage involves contact with the victim at the point the investigation file is received by PPS. This pre-decision assessment is designed to establish an effective working relationship with the victim and to gather and record information concerning their preferred and safest contact method. It also seeks to identify any immediate communication difficulty such as the need for translation, large print etc. Accompanying information will signpost assistance provided by our delivery partners, Victim Support NI (VSNI) as well as providing details of a contact point within VWCU.
	The second stage, post PPS decision, is more detailed and will be conducted upon notification of the accused 'not guilty' plea at Court, including reviewing circumstances that could lead to a requirement for special measures provisions

		 at court and identifying and managing victim and/or witness needs and/or concerns. The third stage, conducted once the trial date has been set, allows for complete revision of the 2nd stage needs assessment with the victim and/or witness and for prompt, effective management of any further or new issues/concerns. Where PSNI have assigned a Family Liaison Officer any associated case victim and/or witness requirements will be managed as outlined above in agreement with both the officer appointed and the victim concerned. It is intended that the outcome of any special measures applications will always be communicated to the victim and/or witness by a witness care officer. In the event of a special measures application being unsuccessful, the victim and/or witness will be advised of other supporting arrangements that may be available
		to them at court and, where necessary, arrangements made to refer them to supporting agencies. This will be taken forward in the Victim and Witness Strategy.
14	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.	 Status: Accepted in Principle Lead: DOJ Comment: The Department agrees that where serious crimes (e.g. such as murder and manslaughter, rape, sexual violence, violent crime and grievous bodily harm)
		have occurred, there may be a need for additional support to be provided to the victim. Victim Support Northern Ireland currently provides support and also signposts victims and witnesses of crime to other services such as trauma counselling, but within the DOJ we will consider the scope for further measures for victims of serious crime to inform service improvements through the Victim & Witness Strategy, with read across as appropriate to the Community Safety Strategy and the new strategy for tackling domestic and sexual violence and

		abuse. Some interventions may sit outside the criminal justice system, albeit that it will have a role in signposting victims to specialist help and support. As most serious crimes are not covered by current surveys (such as the Northern Ireland Victim and Witness Survey, due to the methodology used), there are research gaps in this area. The starting point, therefore, will be to establish a working group of policy leads to progress research in this and other areas not currently covered. This will then be used to inform service improvements. In addition, the Department has committed, in the Programme for Government, to reduce the level of serious crime and a delivery plan to achieve this has been produced.
15	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.	Status: Accepted in principleLead: DOJComment: The present arrangement for the sharing of victim information with Victim Support NI is through an "opt out" process. PSNI inform the victim or witness when they are taking the initial statement that they will refer their details to VSNI unless they say no.The sharing of victim information with the Probation Board is through an "opt in" process. Current practice is dictated by Data Protection legislation, which does not permit certain information being passed between organisations without the victim's consent being obtained. While we cannot amend or circumvent this legislation, we are exploring whether the new business processes being introduced for the VWCU might offer us an opportunity to improve the sharing of victim information.Although we are keen to action an "opt out" process, this is dependent on securing the agreement of the Information Commissioners Office.

		This will be taken forward in the Victim and Witness Strategy.
16	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.	Status: Accepted Lead: DOJ Comment: A working group will be established within the Department to scope and take forward future research. This will include avoidable attrition. This will be taken forward in the Victim and Witness Strategy, with appropriate read-across to the work flowing from the Community Safety Strategy.
17	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.	Status: Accepted Lead: DOJ Comment: These issues will be taken forward in the: • new victim and witness strategy; • the new Community Safety Strategy; and • the new strategy for tackling domestic and sexual violence and abuse.
18	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.	Status: Accepted Lead: NICTS Comment: NICTS is committed to exploring how to extend the NSPCC model to other areas.

		 The extension of remote links will be on a phased basis and at each stage will be reviewed to ensure that the needs of victims and witnesses are being met in the most appropriate and proportionate manner. A proposal on the next stage of extending remote links within the court system is being developed and will be submitted to DOJ by the end of September 2012. If accepted NICTS will proceed with seeking the appropriate judicial and agency agreements to allow commencement of the next phase by June 2013. This will be taken forward in the Victim and Witness Strategy.
Pro	visions at Court	
19	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.	Status: Accepted Lead: NICTS Comment: The scope of the Courts and Tribunals Service Estate Review is currently in development and will include the specific needs of victims and witnesses and bereaved families. This will be taken forward in the Victim and Witness Strategy.
20	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.	Status: Accepted Lead: NICTS Comment: NICTS will review the current arrangements for managing facilities and services for victims and witnesses in courthouses with Victim Support, NSPCC and Women's Aid.

		 NICTS and Victim Support's Witness Service and NSPCC's Young Witness Service will agree a revised partnership protocol which governs the facilities and practices in place and aims to achieve the best possible services for victims and witnesses attending court by October 2012. NICTS will approach Women's Aid to agree a similar protocol for the benefit of victims of domestic violence. A draft will be submitted to Women's Aid by November 2012. NICTS will explore the scope to improve the services to victims and witnesses through contributing to the VWCU Project. This will be taken forward in the Victim and Witness Strategy.
21	The Committee recommends that a maximum waiting time for witnesses should be introduced.	Status: Accepted in principle Lead: NICTS Comment: While the principle behind this recommendation is recognised there could be problems with strict enforcement of maximum waiting times for witnesses. This will be taken forward in the Victim and Witness Strategy.
22	The Committee recommends that greater use should be made of specialist courts e.g. domestic violence courts and courts prioritising young persons' cases.	Status: Accepted Lead: NICTS Comment: There is currently a pilot exercise in Londonderry in regards to special listing arrangements (as opposed to "specialist courts") in domestic violence cases. A group of stakeholders involved in the special listing arrangements for domestic violence cases in Londonderry will meet in September 2012 to plan the evaluation of the pilot.

	The aim is to have an evaluation report completed by January 2013 and this will		
	be used to inform decisions on additional listing arrangements or specialised domestic violence courts.		
	NICTS will work closely with the Office of the Lord Chief Justice to consider how the greater specialisation/accreditation of practitioners in the youth court within the context of a new single youth court jurisdiction might be achieved as recommended in the Youth Justice Review.		
	This will be taken forward in the Victim and Witness Strategy.		
Delay in the Criminal Justice System			
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.	Status: Accepted Lead: DOJ		
	Comment: The DOJ is currently considering how a statutory case management framework could work in Northern Ireland with a view to consulting on the way forward later this year. Subject to the outcome of the consultation provisions could be made through the Faster, Fairer Justice Bill.		
ticipation	· · · · · · · · · · · · · · · · · · ·		
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.	Status: Accepted Lead: DOJ Comment: A formal Victim Impact Scheme will be introduced no later than January 2013 and guidance will be made available to the public.		
	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. icipation 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		

25	The Committee recommends that there should be an	Status: Accepted
	automatic right for Victim Impact Statements to be	
	completed in all cases involving serious crime.	Lead: DOJ
		Comment:
		The automatic right to complete a Victim Impact Statement will be included in
		the Victim Impact Scheme being introduced under recommendation 24.
		The right to complete a Victim Impact Statement will be included in the "Faster,
		Fairer Justice" Bill.
		This will be taken forward in the Victim and Witness Strategy.
26	The Committee recommends that a review of the	Status: Accepted
20	legislation underpinning the compensation schemes	
	should be undertaken to assess whether it is appropriate	Lead: DOJ
	and adequate.	Comment:
		A plan for carrying out the review, including identification of the necessary
		resources, will be produced in the Autumn.
27	The Committee recommends that the issues highlighted	Status: Accepted
	in relation to operating procedures and processes should	Lood DO Lond Componenties Areasy
	be addressed as part of the on-going review of how the Compensation Agency delivers its services.	Lead: DOJ and Compensation Agency
		Comment:
		The current review of the Compensation Agency will now take account of the
		operational issues raised during the course of the Committee's Inquiry. Other
		issues will be considered within the context of the proposed review of the
		legislation.

28	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.	Status: Accepted in principle Lead: DOJ	
		Comment : The Department supports the principle of restorative interventions, although these are not yet universally available in adult cases.	
		DOJ has been supporting the further development of restorative interventions for young people involved in minor crime in communities, where there is a stable community restorative justice infrastructure. There are also a range of restorative intervention options for those victims registered with PBNI's Victim Information Scheme.	
		The Department will continue to explore the opportunities to develop services with a restorative focus, taking into account the recommendations in this regard in the Youth Justice and Access to Justice Reviews, the commitment in the Community Safety Strategy to support restorative approaches to build community confidence, and the outcome of the current consultation on the new Strategic Framework for Reducing Offending.	
Col	Collation of Information/Research on the Experiences of Victims and Witnesses		
29	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	Status: Accepted Lead: DOJ	
	domestic violence, sexual offences, hate crime and the nature and type of crime against children.	Comment: See comment at recommendation 16 relating to a research working group.	

		This will be taken forward in the Victim and Witness Strategy, with appropriate read-across to the work flowing from the Community Safety Strategy and the new strategy for tackling domestic and sexual violence and abuse.
30	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.	Status: Accepted Lead: DOJ Comment: See comment at recommendation 16 relating to a research working group. This will be taken forward in the Victim and Witness Strategy.