

# Assembly Inquiry response

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## 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);

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- 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 know an '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:

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- 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.**

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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.

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## **ATTRITION & 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, 2010a & 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.*

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*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

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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

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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.*



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## 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.*

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## 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

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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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