Commissioner Designate for Victims of Crime Northern Ireland

Scoping Paper to inform the Department of Justice development of the statutory role of the Commissioner for Victims of Crime

March 2024

CONTENTS

1. Introduction

2. Effectiveness of the current Terms of Reference for the Commissioner Designate

3. Scope and remit for directing complaints and monitoring outcomes

4. Consideration of what the role of the statutory Commissioner should be in relation to the independent monitoring and reporting of crime

5. Staffing structure and resources required for the statutory Commissioner's office

6. Essential powers for an effective statutory Commissioner

7. Extent of scope of remit and responsibilities with other government departments

8. Effectiveness of focus on victims of domestic and sexual abuse and hate crime

9. Value and effectiveness of working with other Commissioners on common victim interests

10. Collation of key points and recommendations

1. Introduction

1.1 The purpose of this paper is to reflect the Commissioner Designate's learning on how the Commissioner for Victims of Crime's office (CVOCO) should be established on a statutory basis.

1.2 The Commissioner Designate welcomes the opportunity to help shape how the office should be established in legislation and what powers should be considered. Geraldine Hanna took up the role of Commissioner Designate on the 13th June 2022.

1.3 When the role of the Commissioner Designate was initially established, it was viewed as a positive step forward in providing a voice for all victims, promoting best practice and driving improved outcomes and experiences for victims within the criminal justice system.

1.4 The role of the Commissioner Designate and any future statutory Commissioner is expected to contribute to the following overarching criminal justice outcomes for victims of crime:

- Victims experience improved outcomes from the criminal justice system;
- Better informed and more effective policies, legislation and operational responses are developed;
- Increased awareness and understanding of the impact of both crime and of the criminal justice system on victims;
- Policies and operational practices are informed by the identification and promotion of best practice; and
- Increased confidence in the criminal justice system.

1.5 In appointing a Commissioner Designate it was anticipated that their first years' experience in post would assist the Department of Justice in the development of the statutory role of the Commissioner. Unfortunately due to the collapse of the Northern Ireland (NI) Assembly between February 2022 and February 2024, the Commissioner Designate has been unable to undertake a key function of the intended statutory role. It is therefore difficult at this early stage of the Assembly return to fully assess the benefits, challenges and resource implications that a functioning Assembly will mean for the CVOCO.

2. Effectiveness of the current Terms of Reference for the Commissioner Designate

2.1 The current Terms of Reference requires the Commissioner Designate to;

- Provide a voice for all victims of crime;
- Identify, promote, encourage and issue guidance on good practice;
- Review the adequacy and effectiveness of law and practice;
- Review the operation and delivery of Victim Charter entitlements and promotion of the Victim Charter;
- Direct complaints and monitor outcomes;
- Advise and make recommendations to the Minister of Justice and criminal justice organisations;
- Undertake or commission research, and;
- Ensure good governance.

2.2 The Terms of Reference outline the Commissioner's responsibility to victims of all crime and has been informed by public consultation on the creation of this role. A victim of crime is defined in the Justice Act 2015 as an '*individual who is a victim of criminal conduct…it is immaterial that no person has been charged with or convicted of an offence in respect of the conduct*'[1]. In 2022/23 111,571 crimes were recorded by PSNI of which 69% had an identifiable victim. It is generally estimated that approximately 50% of crime is not reported to the police and many individuals do not readily identify themselves as victims. The Commissioner's remit to provide a voice for all victims of crime encompasses victims who report the crime to the authorities but also those who, for a variety of reasons, choose not to officially report the crime.

2.3 The current Terms of Reference are weighted quite significantly towards victims of reported crime who engage with the justice system and fails to adequately consider the needs of those who do not report crime or the obligations that non-justice agencies should have to victims. It should be noted that engagement with victims of unreported crime is a challenge facing the office.

2.4 The needs of victims of crime must be also understood as a complex and ever evolving issue which requires a cross-departmental, co-ordinated response. Whilst the main focus of meetings between the Commissioner Designate and victims of crime has centred on their experience of the criminal justice system, victims and victims representatives have also highlighted issues with the provision of mental health support, the responsibility of health and social care

[1] Justice Act (Northern Ireland) 2015 (legislation.gov.uk)

trusts and housing support, all of which stretch beyond the remit of the Department of Justice and the current Victim Charter.

2.5 In 2020, Victim Support NI came together with partners in Oak Counselling and the Community Development Health Network to carry out a large survey of victims to assess post court support needs. They contacted 785 victims of whom 458 engaged in the survey. One of the key findings of this survey showed the top five responses to the question of after court support needs were: emotional support, anxiety, counselling, depression, general poor mental health.

2.6 The survey also identified the groups who required support after court. There was a much greater percentage of women than men; victims of physical or sexual violence were more likely to require support; and some victims lived in fear of the incident being repeated or seeing the perpetrator again.

2.7 This survey clearly reinforced concerns that many victims of crime were leaving the justice system suffering poor mental health as a result of their victimisation. Many were unable to find support and of those who did almost a third found it inadequate. This painted a picture of many individuals from a clearly identifiable group of people, with worsening mental health without a support system to prevent this.[2]

2.8 In addition, the learning from the Cawdery case, documented in the Coroner's Inquest report findings[3], highlight the overlap and the need for greater coordination and collaboration between the criminal justice agencies (the PSNI in this case) and other statutory agencies, particularly the Department of Health and the Regional Health and Social Care Trusts. This case also exposed a gap in the Victim Charter in that it omits the responsibility of all Government Departments and statutory agencies to victims and potential victims of crime.

2.9 The Commissioner Designate believes it essential that the statutory Commissioner role is able to promote and champion the interests of victims of crime across all relevant government departments.

[2] *Case Closed: what happens next; A research study into the need for after court support and exploration of how the needs of victims and witnesses on the recovery journey can be better met. Report written by Ann Rea, Karen Henry, and Nicola Cunning.*
[3] Cawdery INQUEST FINDINGS FINAL for publication.pdf

The Victim Charter

2.10 A key responsibility of the Commissioner is to review the operation of the Victim Charter. The Victim Charter in NI was enshrined in legislation in November 2015 and outlines a range of entitlements that victims of all crime should expect from the criminal justice system. These entitlements do not act as victims' *'rights'* per se but rather as a set of procedural safeguards that agencies should ensure are in place for all victims of crime.

2.11 Despite their statutory footing these entitlements lack any real opportunity for meaningful redress with individuals required to follow each individual agency's complaints process if they are unhappy with how they have been treated. The Victim Charter deals solely with a victim's engagement with the criminal justice system thereby failing to recognise the needs and standards of service that victims should expect to receive from other public authorities such as **health and social services, housing etc.**

2.12 Feedback from victims engaging with CVOCO, advisory panel members and wider stakeholders highlight a general lack of compliance with the Charter entitlements and a lack of awareness of what victims can expect. As of the 4th March 2024, the Commissioner Designate had engaged with 83 victims directly. Of these 59% (49) had highlighted complaints directly related to Victim Charter compliance and 51% (43) victims had more than one area of complaint.

2.13 These findings echo the Criminal Justice Inspection NI (CJI) Victims & Witnesses report 2020 and the recent Northern Ireland Victims and Witness Survey (NIVAWS) 2022/23, which highlighted that just 24% of victims were aware of the Charter, however, of those that were, 78% found it helpful. Responses (survey is live until 31.03.2024) to a victims survey being carried out by CVOCO indicate around 19% (roughly 1 in 5 victims) had heard about or been made aware of the Victim Charter during their criminal justice experience.

2.14 The Victim Charter provides the details of 19 service providers that are obliged to provide entitlements to victims of crime. In its first year of post, CVOCO has engaged with many of these agencies. It has become apparent that the majority of the criminal justice agencies do not collate information/data on how they meet Victim Charter entitlements. The Commissioner Designate is concerned that without the legal requirement for this to take place, there is no real impetus or resourcing allocated to ensure this happens.

2.15 The Victim Charter was introduced into legislation in NI in 2015 as the means of transposing the EU Victims Directive into local legislation. The Charter has not been reviewed or updated since then and it clear that awareness and compliance with these entitlements remains low. The European Commission (EC) have recently published proposals to further strengthen the Directive and the rights and protections available to victims of crime. The Commissioner Designate is keen to ensure that the rights afforded to victims in NI keep pace.

2.16 To help ensure that the Charter remains fit for purpose and effective in protecting the interests of victims of crime, the Commissioner should be duty bound to publish a formal review into the effectiveness and operation of the Charter every five years. This report should be presented to the Assembly and include recommendations for required changes where necessary. This will help ensure that the rights of victims of crime in NI are regularly reviewed in line with international best standards and help mitigate against any diminution of the rights and safeguards afforded to victims as a result of the withdrawal of the United Kingdom from the European Union (Brexit).

3. Scope and remit for directing complaints and monitoring outcomes

3.1 The criminal justice system is comprised of independent agencies to which a victim must complain directly if they are unhappy with how they have been treated. The Victim Charter outlines the details to whom a victim can complain. The Commissioner Designate believes that the current process of complaints is overly complicated and burdensome for victims, in particular those who would like to complain about their experience of the justice system as a whole.

3.2 These barriers are greater for those who are already vulnerable and/or in need of additional support due to the impact of trauma, repeat victimisation, age, disability and language barriers. Those wishing to complain must first identify which agency was responsible for the issue and if more than one agency is involved they must then complain to each of the relevant bodies.

3.3 There are currently limited forms of redress (leaving aside the right to request a review of a decision not to prosecute) with the most that a victim can expect to receive is an apology and potential learning or action taken against any individual proven to be at fault. The absence of meaningful redress for victims further compounds their feelings of being disregarded and devalued by the criminal justice system / process.

3.4 The majority of victims engaging with the Commissioner Designate throughout her time in post highlighted issues with at least two criminal justice agencies

with whom they had engaged. These issues tended to focus on key aspects of the Charter which were not met, such as lack of updates, inadequate needs assessment and disrespectful treatment. For many the need to make formal complaints to each respective body acted as a deterrent particularly given the lack of any meaningful effective redress.

3.5 Many issues raised related to the treatment and investigation undertaken by the police at the early stages of the case. Victims in a majority of these cases were reluctant to complain at the time due to the requirement to formally complain to the Police Ombudsman's office. There was also a sense from victims that this was a significant step which '*upped the ante'* and there was a fear that this could lead to them being treated less favourably as the case progressed.

3.6 Victims were less interested in seeing any formal action taken against the police officer involved but rather wanted the alleged behaviour or treatment to be addressed and prevented from happening again. Once the trial had completed, victims spoke of a lack of energy or willpower to pursue a complaints process which would ultimately not change the outcome for them.

3.7 It is ultimately incumbent upon each independent agency to maintain a complaints function to investigate allegations of failures in their role. Enabling CVOCO to receive and investigate individual victim complaints could therefore be a duplication of an agency's role as well as shifting the focus of the statutory Commissioner role to be that of an investigative nature requiring significant additional resources.

3.8 The Commissioner Designate believes that the role of Victim's Commissioner could however helpfully address the barriers encountered by victims when making a complaint if the office has the power to receive victim complaints and direct them to the relevant agency or agencies alleged to be at fault.

3.9 This would provide a single point of contact for victims, provide consistency in practice and help the Commissioner to monitor the key thematic issues of concern to victims of all crime.

3.10 Any statutory duty placed on the office regarding victim complaints must seek to improve the understanding and clarity of victims regarding their right to complain as well as providing an effective channel for the Commissioner to

monitor the prevalence and nature of victims complaints and outcomes achieved.

3.11 Since its establishment, CVOCO has sought to help signpost individuals in contact with the office to the relevant complaints process. In this way the Commissioner can act as a single point of contact for those unsure of who to complain to and how to complain.

3.12 This role could be further enhanced if agencies promoted this option in their respective complaints information. To help improve understanding and awareness of a victim's right to complain and how to complain the Commissioner Designate published a complaints leaflet and an online animation in February 2023 to explain the process.

3.13 In order to help monitor the themes and nature of complaints, the Commissioner Designate has encouraged victims to copy her office into their complaint and request the agency to copy the Commissioner Designate into any response. Practice to date however indicates that this is not regularly happening when victims request it.

3.14 If the Commissioner Designate is not granted the power to act as the single point of contact for victim complaints then all relevant agencies should be obliged in legislation to provide a summary of complaints from victims of crime and outcomes to the Commissioner's office on an annual basis. Agencies should also be obliged to copy their responses to CVOCO where the victim has requested this.

The role of Victim Champion

3.15 The Commissioner Designate believes that the development of legislation for the statutory role provides a good opportunity to explore the role and remit of the current Victim Champion role within respective criminal justice agencies.

3.16 This role could act as a key point of contact for agencies to monitor victim complaints and outcomes in relation to their individual agency and meet collectively with the Commissioner to explore thematic areas for improvement. The role could also helpfully provide a single point of contact for advocacy and support agencies if they face barriers when engaging with agencies on behalf of victims.

3.17 In certain circumstances, the Commissioner should also have the authority to refer a case to a relevant ombudsman for investigation in the absence of a

formal victim complaint where they believe there to be a failure to meet the standards outlined in the Victim Charter. For example, the Commissioner should be able to refer a case to the Police Ombudsman for investigation in a similar way in which the Director of Public Prosecutions, the Northern Ireland Policing Board and the Department of Justice are able to do so.

4. Consideration of what the role of the statutory Commissioner should be in relation to the independent monitoring and reporting of crime

4.1 The responsibility for monitoring and reporting of all crime types spans across a range of criminal justice agencies. A statutory Commissioner should provide an independent scrutiny role that analyses crime reports and highlights the impact of such crimes and crime trends on its victims identifying areas of the law or practice that needs to change in order to improve the victim experience.

4.2 The Commissioner Designate has highlighted concerns about current data gaps within the reports currently produced by criminal justice agencies and identified the collection and analysis of robust data as a key priority area for improvement. Our failure to invest in a comprehensive and co-ordinated data recording system leaves us unable to identify victims differing needs, understand the detailed reasons behind victim attrition and impacts on our ability to identify and address weaknesses in the system.

4.3 The business case to support investment in system development would be assisted if public authorities were compelled through legislation to report and publish specific data sets relating to crime, victim characteristics and victim outcomes. Agencies could also be obligated to produce specific data recommended by the Commissioner where gaps are identified. *Legislation to require public authorities to share identified data sets with the Commissioner* on a regular basis should be included and agencies should be obligated to respond to data requests sought to inform any reviews or research being undertaken or commissioned by the Commissioner's office.

4.4 The Commissioner Designate is currently working with criminal justice agencies to develop agreed data sets and the outcome of this project could inform any legislative requirement. This would help ensure transparency, enable greater scrutiny and monitor the impact of legislative changes to determine their success in addressing the initial policy concern. It would also help reinforce the

importance placed on the delivery of victims' rights in the criminal justice process.

4.5 The responsibility for monitoring data accuracy and file quality is an integral part of each independent organisation's role with oversight provided within existing investigatory and governance structures e.g. NIPB, HMICFRS, CJINI etc. The Commissioner's role should complement the criminal justice system in this oversight role with the work plan of the office shaped by the thematic systemic issues highlighted by victims and sector representatives.

4.6 Research and reviews undertaken by CVOCO will inevitably draw upon the data and reports produced by the relevant criminal justice agencies. Analysis of reported crime and justice performance will help inform this thinking and predict areas of future need.

4.7 The Commissioner could be required in statute to provide an annual report to be tabled before the Assembly which outlines the key thematic areas identified by the office. The possibility of a Justice Minister requesting a post-legislative review of the effectiveness of new legislation may merit consideration however we should be cautious not to stray into or potentially duplicate the remit of the Criminal Justice Inspection team.

4.8 The Commissioner Designate wishes to see Northern Ireland further develop and align their response and planning for victims of crime in line with the *National Framework for Comprehensive Victim Support* [4] as proposed by Victim Support Europe. Such an approach would ensure formal co-ordination and co-operation across government and civil society and set a strategic vision to ensure the protection and promotion of victims of all crime. This framework requires engagement of State actors from all government departments alongside victim support providers and the private sector.

5. Staffing structure and resources required for the statutory Commissioner's office

5.1 The staffing structure of the office should be informed by the agreed functions and enable the Commissioner to deliver their powers and duties effectively whilst ensuring value for money.

5.2 In the absence of legislation the current Commissioner Designate and the office has been established within the accounting boundary of the Department of

[4] National Framework for Comprehensive Victim Support – Victim Support Europe (victim-support.eu)

Justice. The office was initially established with a Chief of Staff (G7 level), a Policy and Research Officer (DP level) and an Office Manager and Complaints Officer (EO2 level). As the office has bedded in over the first year, business cases demonstrated the need to appoint an additional Policy and Research Officer with a particular focus on domestic abuse, sexual abuse and hate crime and a Communications and Engagement Officer to support the work of the Commissioner Designate.

5.3 The establishment of the Commissioner for Victims of Crime and the Office in statutory legislation will likely designate the Office as an Arm's Length Body (ALB) to government and the structure will need to support the office as a separate legal entity resourced sufficiently to deliver against the powers and duties assigned to the Commissioner.

5.4 The statutory office will need to include provision for:

Corporate Services Department

5.5 The purpose of the Corporate Services department is to ensure good governance, financial management and probity for the Commission. The range of duties this team will undertake will include budgetary management, risk management, business case management (in conjunction with other teams), HR responsibilities and annual reporting/accounting.

5.6 This department will also be responsible for frontline access to the public, diary management and administrative support as well as supporting the Commissioner and Chief Executive in reporting to the Audit and Risk Assurance Committee (ARAC) and to the Sponsorship Branch within the Department of Justice.

5.7 The Corporate Services department could also be responsible for ensuring the case management system is kept up to date by all relevant staff members, running thematic reports and supporting case management meetings.

Policy and Research Department

5.8 The purpose of the Policy and Research department is to assist the Commissioner in developing an evidence base to produce advice and recommendations for government. A robust evidence base is vital for any work the Commissioner will undertake and it must be underpinned by the lived

experience of victims of crime.

5.9 The Policy and Research department should be sufficiently resourced to ensure expertise and capacity to inform work needed to promote and respond to the needs of specific groups of victims. These needs may be based on crime types such as domestic, sexual crime etc. where the crime itself raises specific challenges or based on personal characteristics such as young victims, older victims, those with disabilities etc. where specific vulnerabilities may require the system to develop respective policy and procedures.

5.10 A key function of the office will be to provide thematic analysis and research into key issues affecting victims of crime. This work will require internal research experience complemented by funding provision to commission larger independent research projects.

Complaints and Advocacy Officer

5.11 The office should be supported by a Complaints and Advocacy Officer with responsibility for monitoring complaints received across the system, engaging with criminal justice agencies (Victim's Champions) and signposting victims to relevant agencies. The grade of this role and capacity required to fulfil it will be determined by the detail specified in legislation as to the Commissioner's powers or duties regarding victim complaints and could sit within the Policy and Research team.

Communication and Engagement Department

5.12 The purpose of the Communication and Engagement department is to implement a robust communications strategy that is both proactive with stakeholder engagement and reactive to incoming demands, particularly the media. This will ensure the Commissioner can fulfil their responsibilities including promotion of the Victims Charter and engaging widely with a range of stakeholders.

5.13 The department will be responsible for the delivery of the communication strategy including engaging with print/broadcast media, management of social media platforms, content management for the CVOCO website, the preparation and dissemination of press releases/communication materials, the management and delivery of engagement events with a wide range of stakeholders including victims of crime, statutory agencies, media, voluntary and community sector organisations, the production of printed reports and merchandise and all CVOC brand management.

Victim Engagement Officer

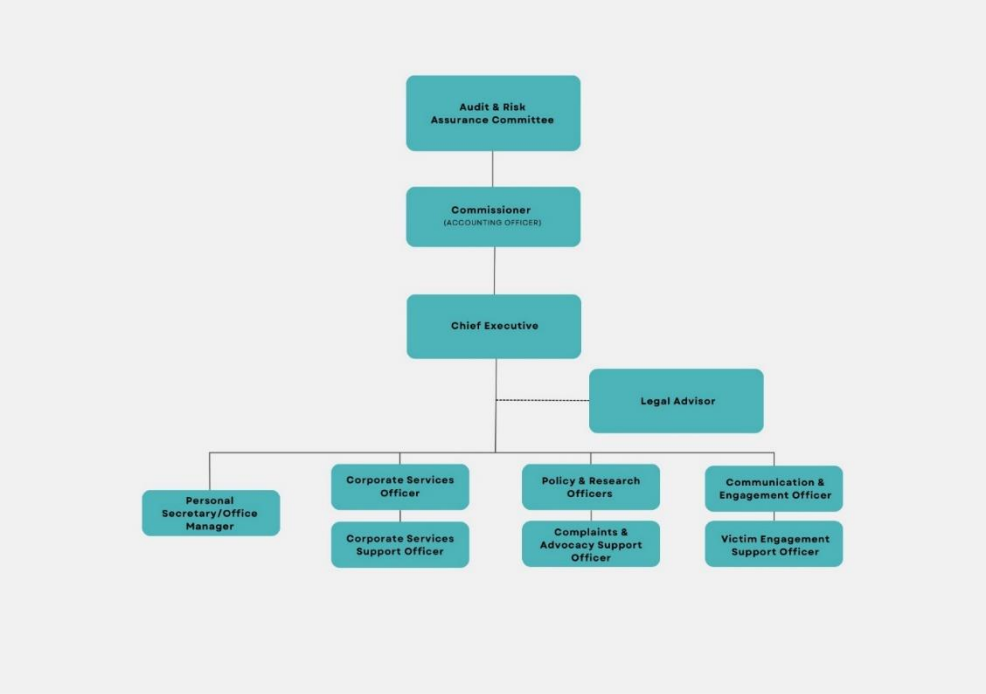
5.14 The ability of the Commissioner to be an independent voice for victims of all crime will be reliant upon its success in engaging with victims and victims' representatives. Given the importance and sensitivity of this task the office could benefit from the support of a Victim Engagement Officer. The purpose of the Victim Engagement Officer is to focus on engagement and foster good working relationships with victim support organisations such as Women's Aid, Nexus, Men's Advisory Project, Victim Support NI etc., to organise and facilitate focus groups to 'test' victims' views on relevant issues and to liaise between victims and media outlets.

Legal Support/Advisor

5.15 Within this first term, the Commissioner Designate has required legal support once (to date) to ensure published advice is legally sound. Whilst it is recognised that there may not be the need for the resourcing for a full time legal advisor staff member, it would be prudent to make provision for ad hoc legal support and ensure adequate resources are ring-fenced.

5.16 If the statutory Commissioner has the ability to initiate/intervene in legal proceedings (see section 6), this will also require an allocated resource for legal support.

5.17 **Suggested CVOCO Structure Organigram**



6. Essential powers of an effective statutory Commissioner

6.1 In order to ensure that the Commissioner for Victims of Crime can effectively deliver against the core functions/terms of reference governing the role, it is necessary to ensure that the role has the effective legal powers to do so. In order to promote victim and public confidence that the role can effectively ensure that the rights of victims are protected, the statutory role must have the appropriate scrutiny and legal powers to ensure compliance. The development of such should draw upon learning from other NI Commissioner roles as well as the development of the Victims Commissioner and Domestic Abuse Commissioner in England and Wales and current proposals for a Victims and Witnesses Commissioner in Scotland.

Power to compel statutory agencies to facilitate and co-operate – specifically with information provision

6.2 The Commissioner Designate has established positive working relationships with all criminal justice agencies and there is a willingness across agencies to engage with CVOCO. In the absence of statutory cover this engagement relies solely on trust rather than any enforceable duties. In order to secure the appropriate engagement of respective agencies, the duty to co-operate with CVOCO should be placed on a statutory footing.

6.3 This power will ensure that relevant agencies provide relevant information/data to CVOCO to monitor the effectiveness of service provision to victims and their treatment by agencies, victim outcomes and compliance with the Victim and Witness Charters. The legislation should establish protocols for data collection by named agencies and outline the regulatory framework governing how this information is shared with CVOCO.

6.4 The types of information to be shared include:

- Compliance data regarding the Victim Charter to identify issues and inform recommendations;
- Outcomes for victims engaging with the criminal justice system to identify issues and inform recommendations;
- Transcripts (audio and/or written) of court cases on request to help monitor the treatment and experience of victims at court specifically during examination, cross-examination and sentencing.

6.5 This could also relate to the need to compel relevant agencies to co-operate in the provision of information for the purposes of conducting investigations and/or bringing forward a judicial review as well as a duty on public authorities to respond to the Commissioner's recommendations.

6.6 This power would send out a clear message that the rights and treatment of victims is a serious matter where compliance is a necessity rather than a discretionary offering. It would help address the sense of *'apathy and disconnection'* amongst criminal justice professions which CJINI identified when it came to the Victim Charter and their responsibilities under it.

Power to recommend changes to the law

6.7 The Commissioner is required to review the effectiveness and adequacy of the law as part of the existing terms of reference as well as issue guidance on best practice. In order to support this in legislation, the Commissioner should be able to highlight issues and gaps regarding protection for victims and recommend changes as appropriate.

Power to review the advocacy, complaint, inspection and whistle-blowing arrangements of relevant public authorities with regards to victims of crime

6.8 This power would apply to instances where potential thematic failures have been identified and/or where there are reasonable grounds to believe that current practice is ineffective in promoting the rights and best interests of victims of crime.

6.9 In Scotland, the Victims, Witnesses and Justice Reform (Scotland) Bill is currently progressing through the Scottish Parliament. Part 1 of the Bill provides for the creation of the office of Victims and Witnesses Commissioner for Scotland and one of the proposed powers is the ability for the Commissioner to conduct investigations into "*whether the Scottish Government and other criminal justice agencies have had regard to the interests of victims and witnesses in carrying out their functions. This power would be subject to a restriction preventing the Commissioner from directly intervening in individual cases*". [5]

[5] Victims, Witnesses, and Justice Reform (Scotland) Bill (azureedge.net)

6.10 This is a power that should be considered for the Commissioner in a Northern Irish context and would be in line with the powers held by both the Northern Ireland Commissioner for Children and Young People (NICCY) and the Commissioner for Older People in Northern Ireland (COPNI).

6.11 As with both NICCY and COPNI, there are other statutory agencies who address the individual complaints, such as Health and Social Care Trusts, the Regulation and Quality Inspection or the Northern Ireland Ombudsman for Public Services etc. However both these Commissioners have the power to undertake an investigation if they suspect there are organisational or thematic failings that are not being addressed. This is generally supported by evidence gathered by the Commission from service users and/or their families/carers/support agencies.

6.12 This would be important if it is suspected there has been systematic breaches of human rights under the Human Rights Act 1998. This could be also evidenced through repeated reporting of failures by a relevant authority to meet the needs of victims of crime.

Power to initiative/intervene in legal proceedings

6.13 The Commissioner's role is focused on monitoring and protecting the rights of all victims rather than focused on individual cases. It is however possible that where CVOCO identify a pattern of lack of compliance that the best way to improve outcomes for future victims is to initiate legal proceedings or judicially review a specific case. Similar powers apply to the roles of Children's Commissioner and the Commissioner for Older People in NI and would apply to cases where it raises a question of principle or other special circumstances.

6.14 Such proceedings could add value to the rights and interest of all victims of crime and assist with ensuring the clarity and confidence in the law to protect victims of crime. Such a power strengthens the rights to redress for victims who in order to take a judicial review themselves, need to be in receipt of legal aid or have considerable financial resources. Such action also involves significant emotional costs for victims to pursue.

6.15 This power would only be used in exceptional circumstances where there is ongoing concern about an agency failing to comply with the Charter or uphold victims' rights or the need to clarify the law in the public interest. In the absence of other suitable remedies for victims of crime, the Commissioner's power to

initiate proceedings provides a route against which public authorities may be held accountable for their actions.

6.16 The power to intervene or initiate a judicial review is likely to only be used in exceptional circumstances and would have obvious resource implications for the Office, consideration of which would be a key factor in the Commissioner determining whether any such intervention would be appropriate.

Power to ensure statutory agencies have due regard for advice and recommendations made by the Commissioner

6.17 The Commissioner will undertake or commission research that focuses on the experience and rights available to victims. These reports will examine current practices and policies in place across relevant agencies resulting in recommendations for improvement. It is vital that any advice or recommendations made by the Commissioner is properly considered by the intended recipient and response drafted (within a specified legislative timeframe) that highlights how the recommendations will either be accepted and implemented or why this cannot happen and what other mitigating actions will be taken to remedy a failing or thematic issue.

7. Extent of scope of remit and responsibilities with other government departments

7.1 Victims of reported crime are largely impacted by the statutory agencies within the criminal justice system in Northern Ireland. However people who have experience of the criminal justice system in Northern Ireland, both as victims and as perpetrators of crime, will also have experience of other statutory agencies, whether it be the health service, education or housing sector. 27% of victims that have engaged directly with this office to date have raised with us issues they have with a statutory body outside the of criminal justice system.

7.2 The Commissioner Designate is clear that there is overlap in how victims of crime should have their needs addressed. This has recently been highlighted by the joint production of the draft Domestic Abuse Strategy by the Department of Justice and Department of Health which recognised the need for input from both departments. Most recently, the Executive Office launched the draft Ending Violence Against Women and Girls Strategy and Action Plan which also recognised the importance of government departments working together. It is also worth highlighting that the legislation governing the scope of the Domestic Abuse Commissioner in England and Wales includes a remit that covers not

only policing or criminal justice but also education, health and social care services across England.

7.3 The responsibility of cross-departmental agencies is also recognised in the area of domestic abuse where agencies from justice, health, housing, probation and education are all involved in forums such as the Multi-Agency Risk Assessment Conferences and the Domestic Homicide Review (DHR) process.

7.4 The Commissioner Designate has met with victims of crime whose experience has been across various issues and with a range of statutory agencies. When the Commissioner Designate meets with victims of crime, she does not use a prescriptive format and provides the individual with the opportunity to talk about their own 'journey'. Therefore, it can be difficult to ascertain exactly where issues with other government departments lie however the Commissioner Designate is able to use her own judgement as to where failings may have taken place. In order to ensure the protection and promotion of the broad spectrum of victims' interests, the importance of other government departments must be recognised e.g.;

- Department for Communities – provides funding for the Northern Ireland Housing Executive and various housing associations – housing is an issue for victims of domestic violence and hate crime;

- Department of Health – responsible for health and social care and provides strategic oversight of the delivery of the Mental Health Strategy;

- Department of Education – responsibility for developing Relationship and Sexuality Education (RSE);

- Department for Infrastructure – responsibility for ensuring development and maintenance of public realms (lighting etc.);

- Department of Finance – responsibility for oversight of civil law reform which includes regulation of the Law Society of NI.

7.5 The Scottish Government has also made the recommendation as part of the Victim, Witness and Justice Reform Bill[6], that the Commissioner for Victims and Witnesses in Scotland should have the ability to take into consideration the experience of victims and witnesses in the civil justice system too.

[6] Delegated powers in the Victims, Witness and Justice Reform (Scotland) Bill.pdf

7.6 During the Commissioner Designate's current term, the issue of how domestic abuse cases are handled within both the criminal and civil courts has become an identified theme with research commissioned on how the interaction impacts on domestic abuse victims and their children. This research will no doubt provide sufficient evidence that will point towards merit in replicating this power in Northern Ireland.

8. Effectiveness of focus on victims of domestic and sexual abuse and hate crime

8.1 The Commissioner Designate is committed to ensuring that victims of all crime are heard and valued by our society and that our systems respond appropriately to meet their needs. It is of course evident that certain categories of crime cause specific vulnerabilities and risks for victims and we must work to address their needs whilst ensuring we avoid any potential hierarchy in the treatment and rights of all victims.

8.2 It should also be recognised that there is an intersection across varying groups of victims and that the experience of crime is individual to the person. We must therefore strive where possible to effectively assess and address victims' needs on an individual basis.

8.3 In their first year in post, the Commissioner Designate established four advisory panels to help inform the work of the office – an all crime panel, domestic abuse panel, sexual abuse panel and a hate crime panel. These panels are comprised primarily of service providers and academics and their role is to help inform the implementation of Commissioner Designate's strategic plan, highlighting issues of concern and/or areas for consideration as part of the office work plan. These groups have assisted the office in testing ideas, providing feedback and challenge and identifying thematic areas of concern for specific victim groups.

8.4 To date, 58% of victims of crime the Commissioner Designate has met personally have been victims of sexual and domestic abuse. This is unsurprising as these are some of the most intimate crimes an individual may experience which have a profound impact and often take considerably longer to progress through the justice system. Predominantly, the emerging themes to date concern the justice and health sector and are equally relevant to victims of all crime e.g. lack of Charter compliance, lack of case updates, delay, disrespectful treatment, failure to fully investigate, changes to charges, lack of/long waiting times for mental health care, etc. However, some themes raised are specifically related to the crime type experienced by the victim such as the

role of the family court in domestic abuse cases, breaches of non-molestation orders, use of rape myths, disclosure of counselling records, challenges with housing etc.

8.5 It is essential that CVOCO has adequate resourcing to ensure that the statutory Commissioner is able to adequately monitor and advocate for the interests of victims of all crime as well as addressing thematic issues that relate specifically to victims of certain crime types. In recent years, the areas of domestic abuse, sexual abuse and hate crime have all benefitted from increased scrutiny and government attention, most notably through the commissioning of the Gillen Review into sexual offences and the Marrinan Review of hate crime. As well as these reviews, new laws have been introduced surrounding domestic abuse, coercive control and stalking alongside the roll-out of DHRs.

8.6 It is inevitable that changing government priorities and focus on specific areas will impact on the work of the Commissioner for Victims of Crime and their office. The office infrastructure should be such that it is able to flex and remain resilient to respond to emerging themes for example, the Ending Violence against Women and Girls (EVAWG) strategic framework and subsequent work streams will be of interest to the Commissioner. It is also highly likely that specific high volume and high risk crimes such as domestic abuse will continue to require specific attention and have an inevitable knock on effect on the work of the Commission.

8.7 It is recognised that the Commissioner Designate's office was established with a scaled back team on the understanding that the post was newly created and yet to be placed on the statute books. The first year and a half has highlighted the need to increase the capacity in specific areas and in order to support work on specific crime types the Commissioner Designate successfully bid for the creation of a dedicated policy and research officer focused on the areas of domestic, sexual and hate crime. The team have also established close working relationships with both the London Victims' Commissioner and the Domestic Abuse Commissioner in England and Wales to help ensure that any learning from these offices can help inform the development of policy and services in Northern Ireland.

8.8 Learning from England and Wales has demonstrated the benefits of having a Commissioner role that can shine a light on the needs of domestic abuse victims and the quality and level of service provision available. The first Domestic Abuse Commissioner for England and Wales was appointed in 2019, nine years following the establishment of a Victims Commissioner (this role replaced the previous Victim Champion position appointed in 2009). The remit

of this role has subsequently expanded since its adoption with the government providing additional funding in 2022 for it to develop a National Domestic Homicide and Suicide Oversight Mechanism to monitor the implementation and outcomes of recommendations following DHRs. This development arose in part from a recognition that the same themes were arising from reviews.

8.9 The introduction of DHRs in Northern Ireland is relatively recent with only two reports published to date. As the number of reviews increase, it is essential that the organisational learning from each review is fully implemented across the respective agencies, both to help prevent future deaths as well as ensure confidence in the process. Currently, the Department of Justice chairs the Strategic Oversight Forum which is the multi-agency group with responsibility for monitoring implementation. In light of the independence of each of the groups involved however ***the Commissioner Designate recommends that the Department of Justice considers the role that a statutory Victims' Commissioner could play in ensuring the effective implementation of DHR recommendations and their impact*** and any associated legislative powers that should subsequently be built into the role**.**

8.10 The Commissioner Designate understands that the Department of Justice will undertake a comparison of different legislative provision for Commissioner roles in place elsewhere, so has not undertaken any detailed comparative analysis. She does however wish to note the recognition of the Westminster government of the need for the Domestic Abuse Commissioner to engage with other government departments, in particular health. The remit of the role with regards to the mapping of service provision for victims is also an area of consideration that should be reflected on when considering the statutory Victim Commissioner's post.

8.11 The experience of the office to date has indicated the need for additional dedicated resources to focus on thematic issues affecting victims of specific crime categories. The need for an additional Commissioner however has not been evident however it is recognised that the office is still in its infancy and has been operating in the absence of an Assembly with whom the Commissioner would be engaging.

8.12 Given the spending pressures on government at this point, having separate commissioners that focus solely on sexual abuse, domestic abuse or hate crime is likely to split resources and with all Commissioners' offices requiring suitable support structures for finance, IT, governance and HR services. The experience in England and Wales also evidences areas where an overlap in

remit has required both the VC and the DAC to respond to issues e.g. Victims and Prisoners Bill, DHR reviews, etc.

8.13 At present, the Commissioner Designate believes it would better serve victims of crime to continue with one Commissioner for Victims of Crime within which the infrastructure should support a dedicated focus on the needs of victims of specific crime types or increased vulnerabilities.

9. Value and effectiveness of working with other Commissioners on common victim interests

9.1 Crime is indiscriminate therefore is it inevitable that the interests of victims will intersect with many other Commissioners, Ombudsmen and Champions such as the Mental Health Champion. To date, the Commissioner Designate has undertaken work with the Information Commissioner's Office in relation to the excessive sharing of victim's personal data, had discussions with the Commissioner for Older People in relation to age being included as a protected characteristic in the Department of Justice Hate Crime Bill and with the Commissioner for Survivors of Institutional Childhood Abuse relating to victims of clerical historical sexual abuse. She also engages regularly with Commissioners from outside Northern Ireland as outlined in section 8.

9.2 An onus is in place on all Commissioners to collaborate as appropriate in pursuing areas of common interest and the level and extent of this work will inevitably vary depending on the issue. It is anticipated that the most regular interaction with other Commissioners will be ad hoc to provide updates and take opinion on specific areas and this would be facilitated as part of the regular policy and engagement work of the office.

9.3 There may however be times when it is appropriate for two or more Commissioners to agree to jointly work on a specific area of mutual interest e.g. the needs of child victims in the criminal justice system could be taken forward by both the Commissioner for Victims of Crime and the Children's Commissioner. In such circumstances both Commissioners would be required to consider the level of staff and financial resources within their respective remits to facilitate such work securing the best value for money for both offices. It is essential therefore that the Commissioner for Victims of Crime office has suitable flexibility and capacity in staff roles as well as funding to help facilitate such joint projects where appropriate.

10. Collation of key points and recommendations

10.1 It is essential that the statutory Commissioner role is able to promote and champion the interests of victims of crime across all relevant government departments.

10.2 The Commissioner should be duty bound to publish a formal review into the effectiveness and operation of the Victim Charter every five years.

10.3 All relevant agencies should be obliged in legislation to provide a summary of complaints from victims of crime and outcomes to the Commissioner's office on an annual basis.

10.4 The Department of Justice should explore the role and remit of the current Victim Champion role within respective criminal justice agencies and how this role could be further strengthened in legislation.

10.5 The Commissioner should have the authority to refer a case to a relevant agency for investigation where they believe there to be a failure to meet the standards outlined in the Victim Charter.

10.6 All relevant agencies should be required to share identified data sets with the Commissioner.

10.7 The Commissioner should be required in statute to provide an annual report for the NI Assembly which outlines the key thematic areas identified by the office.

10.8 The legislation should give the Commissioner the power to:

- Compel statutory agencies to facilitate and co-operate – specifically with information provision;
- Recommend changes to the law;
- Review the advocacy, complaint, inspection and whistle-blowing arrangements of relevant public authorities;
- Initiate/intervene in legal proceedings;
- Ensure statutory agencies have due regard for advice and recommendations made by the Commissioner.

10.9 The Commissioner Designate recommends that the Department of Justice considers the role that a statutory Victims' Commissioner could play in ensuring the effective implementation of DHR recommendations and their

impact and any associated legislative powers that should subsequently be built into the role.