



Department of

Justice

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**Research into the criminal justice experiences of
victims of Domestic Violence and Abuse**

Department of Justice response

March 2016

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Ministerial foreword

When domestic violence and abuse crimes happen in our society victims must be supported and protected from further harm. Victims play a key role in the criminal justice system and should receive high standards of service throughout their journey from reporting the crime to giving evidence at court and to the outcome of the trial. It is important that the criminal justice system continues to look at areas for improvement so that all victims, including victims of domestic violence and abuse, receive the help, support and protection they need, at a time when their lives have been changed as a result of crime.

I appreciate that it can be very difficult to recall and recount a time of trauma experienced through domestic violence and abuse, so I want to thank all those who participated in this research. You have demonstrated an inner strength and resolve to make the system better for others.

I recognise the importance of hearing first hand the views of victims who experience the criminal justice system. Such views are a key aspect of shaping policy decisions and improving services throughout the criminal justice system. For that reason, a key strand of my five-year victim and witness strategy is to gather the views of those who have been affected by crime. Lessons will be learnt from those who have willingly shared their experiences as part of this research.

I am pleased to note that the research shows that there have been many very good and positive experiences. However, there is still room for improvement and action will be taken to address the issues identified in the research so that victims of domestic violence and abuse in the future receive improved services as they make their way through the criminal justice process.

A number of important changes have already been introduced through the strategy. These should make a significant positive difference to the experience of victims and witnesses. These will directly address a number of the issues highlighted in the research. Such changes include the establishment of a Victim and Witness Care Unit, which provides a single point of contact for victims from when the case is

submitted by the police to the Public Prosecution Service. A Victim Charter has been published, and placed on a statutory footing; which sets out the entitlements of victims of crime and the services they can expect to receive as they move through the criminal justice system. I am also overseeing a range of procedural, legislative and structural reforms intended to speed up criminal case progression and improve the efficiency and fairness of the system. There is also a need to ensure that account is taken of the individual circumstances of victims, reflecting their needs through tailored service provision.

In the area of domestic violence and abuse, I want to build on the support and protections that are already in place for victims. My Department is progressing work in a number of areas. Through the Justice Act (Northern Ireland) 2015 I am in a position to bring Domestic Violence Protection Notices and Orders into Northern Ireland and will be consulting on the potential introduction of a Domestic Violence Disclosure Scheme and a specific offence of domestic abuse. I also plan to develop an appropriate model for domestic homicide reviews and have committed to considering the extension of the special court listing arrangements that are already in place in the Londonderry court district. Taken together these measures should ensure that victims of domestic violence and abuse are given greater protection, with account taken of their individual needs.

I hope that the actions being taken forward as a result of this research, together with this ongoing plan of work, will secure further improvements to the criminal justice system, so that victims of domestic violence and abuse have a more positive experience in achieving access to justice.

DAVID FORD MLA
Minister of Justice

Section 1: Background

Victim and Witness strategy commitment

The five-year victim and witness strategy, *Making a Difference*,¹ sets out a range of steps to improve the experience of victims and witnesses as they move through the criminal justice system. This includes obtaining the views of victims and witnesses about their experience of the criminal justice system, using this to review and improve the services provided.

At present, the views of a representative sample of victims and witnesses are obtained through the Northern Ireland Victim and Witness Survey. However, this telephone survey does not apply to certain victims, due to the seriousness of the crime or sensitivities involved. This includes victims of sexual or domestic violence and abuse, families bereaved through murder, manslaughter or culpable road death and victims under the age of 18.

Research programme

With this in mind, over the timeframe of the five-year strategy, the Department of Justice intends to listen to the experiences of those victims set out above. In light of the experience to date, the Department considers this type of research to be extremely valuable in terms of determining the impact of current and future policy on those who, through no fault of their own, come into contact with the criminal justice system.

This report provides a brief overview of the experiences set out through the 16² female interviews undertaken with domestic violence victims, and two workshops held with Women's Aid representatives, as well as the issues raised, before setting out:

- what changes have been introduced in the period since the cases in hand were dealt with;
- what changes are to be introduced, or are already underway, to take account of the issues raised;
- scoping work that will be carried out to ascertain the potential for further change in the medium term, while taking account of the increasingly restricted financial position that service providers in the criminal justice system are facing and will continue to experience in the coming years; and
- those areas in which greater clarity can be provided to explain the rationale for the way in which the system operates.

Further details on the findings from the research can be found in the summary paper at www.dojni.gov.uk/topics/justice-and-law/victims-crime. The Department is also undertaking some supplementary work to ascertain the views of male victims of

¹ www.dojni.gov.uk/publications/victims-and-witnesses-strategy-2013-2018

² While it had been the intention for the research to cover the experiences of both male and female victims of domestic violence, the lack of success in encouraging male participation has meant that the research had to be restricted to female victims. Further efforts are being made to seek feedback on the male victim experience. The contribution from the one male participant will form part of those findings.

domestic violence, given the limited access to male views as part of this research. This matter was also touched on by those participating in the Women's Aid workshops. Further information on this, as well as access to a survey for male victims of domestic violence and abuse, can be found at www.victimsupportni.co.uk/news/are-you-a-male-victim-of-domestic-abuse and www.mapni.co.uk/research/.

Impact on wider groups of victims

While the individuals who participated in this research were affected by a specific type of crime, it is considered that a number of the findings can beneficially be applied to victims of crime more generally. Other measures will be specific to those who have been victims of domestic violence and abuse.

Developments since the time period covered by the research

By way of background, it is important to note that the research that was undertaken primarily involved cases that concluded at court between the second half of 2013 and the end of 2014.³ Since then various changes have been made to the criminal justice process with a view to improving the services provided, ensuring that as much information as possible is provided on the progress of a case and also providing victims with a single point of contact for as much of the process as possible. It is considered that these developments should help address a number of the issues identified in this research.

Victim and Witness Care Unit

A new Victim and Witness Care Unit, staffed by the Public Prosecution Service and the Police Service of Northern Ireland (PSNI), was formally launched in May 2014. This provides a single point of contact within the criminal justice system for victims and witnesses. Its primary role is to keep victims and witnesses informed about the progress of the case. A named case officer is appointed to each case and their name and contact details are notified to victims and witnesses. The case officer is the single point of contact from when an investigation file is submitted to the Public Prosecution Service, through to and including the outcome of any court proceedings. Information is provided by the Unit at key points in the process. The Victim and Witness Care Unit will also provide three monthly updates to victims in Crown Court cases, typically the most serious cases, where there has been no communication within the previous three months. This occurs whether or not there has been significant progress. Victims and witnesses are also able to contact their case officer should they have any queries or concerns.

Victim Charter

A new Victim Charter was published in December 2014 and was placed on a statutory footing in November 2015.⁴ This is intended to raise the bar, in terms of the services available to victims of crime, by providing victims with relevant

³ As far as possible the cases selected involved those that had concluded at court in the 18 months prior to January 2015.

⁴ The Victim Charter and associated documentation can be found at www.dojni.gov.uk/publications/victim-charter.

information and clearly setting out what they can expect as they move through the criminal justice system. The Charter sets out:

- what victims can expect when reporting a crime;
- information that will be provided on a decision to prosecute;
- what services are available when attending court and giving evidence;
- how to receive information when an offender is released;
- information on services to support victims on their journey through the criminal justice system and access to these;
- how to claim compensation;
- where to obtain further information if needed;
- what to do if a victim is not happy with the service that has been provided; and
- contact numbers and helplines for victims of some of the more serious crime types such as murder, manslaughter and culpable road death; domestic violence and abuse; sexual violence and abuse; trafficking; and hate crime.

To complement the Charter, a new Victim of Crime information leaflet⁵ has been available since December 2014. This should be given to all victims of crime by the police (or information provided on where it can be found), setting out information on key stages of the process and highlighting where further information can be obtained. This covers:

- reporting a crime;
- the police investigation;
- support services;
- victim personal statements;
- going to court as a witness;
- restorative justice;
- convictions, sentence, release and supervision of offenders;
- compensation services;
- complaints; and
- entitlements under the Victim Charter.

To ensure the Victim Charter is as accessible as possible, the Department has produced a summary document, an easy read version and a young person's guide to the Victim Charter. A small credit card sized Victim Charter card, setting out key rights and contact details for Victim Support NI, is available at the offices of criminal justice organisations as well as a range of voluntary sector support offices. The card is also being disseminated at a range of other public sector facing bodies. More generally, the Department plans to review the current guides to the criminal justice system in 2016.

Future work

In addition to the work already undertaken, which it is hoped will address a number of the concerns of victims of domestic violence and abuse (as well as victims more generally), the research has highlighted a number of areas where specific action is

⁵ www.dojni.gov.uk/publications/victim-charter.

needed. The following sections deal with the key issues raised during the research, the position in relation to these and future actions to be taken forward.

Section 2: Issues raised during the research

The research involved interviews with 16 female victims of domestic violence and two workshops with representatives from Women's Aid.⁶ There were many areas of commonality in relation to the issues raised and this report provides an overview of the issues raised collectively. A summary paper on the research can be found www.dojni.gov.uk/topics/justice-and-law/victims-crime.

Overall, the research highlighted positive feedback in relation to services provided by the PSNI Domestic Abuse Officers and the support provided by Women's Aid. However there was mixed feedback in terms of the contact with criminal justice agencies, with a range of issues identified and a number of areas where it was suggested improvements could be made.

The areas of concern focused on the treatment received from criminal justice professionals, communication and the provision of updated information on the progress of a case. The issues raised are broadly categorised under the following headings:

- Awareness and knowledge of the criminal justice process;
- Engagement and contact with the police;
- Effective communication about case progression;
- Engagement, contact and communication with the Public Prosecution Service;
- Practical issues at court including court facilities;
- Support services at court;
- Delay and adjournments;
- Victim personal statements;
- Sentencing;
- Victim information schemes, relating to the release of an offender; and
- Miscellaneous issues.

⁶ The Department is also undertaking some work to ascertain the views of male victims of domestic violence. Further information on this, as well as access to a survey for male victims of domestic abuse and violence, can be found at www.victimsupportni.co.uk/news/are-you-a-male-victim-of-domestic-abuse and www.mapni.co.uk/research/.

Section 3: Department of Justice's position and response

This section looks at the issues raised during the research and sets out the Department's response, reflecting, where appropriate, changes that have been introduced recently that should help to deal with some of these issues. It also highlights work that is underway to improve the services provided to victims of crime. Some of these are specific to victims of domestic violence and abuse incidents, others will apply to victims more generally. The associated action plan sets out the actions that will be taken forward to address the issues the raised, where these are not considered to have been dealt with through recent or pending policy changes.

Awareness and knowledge of the criminal justice process

The research highlighted that there is some lack of awareness and knowledge of the criminal justice process. The Victim Charter and supplementary material (summary Charter, easy read version of the summary and young person's guide to the Charter) are intended to provide a step by step guide through the criminal justice system. The Charter also provides a short overview of the criminal justice process, service providers and a flowchart of the typical journey through the system – reference to this flowchart is also included in the documentation that issues from the Victim and Witness Care Unit. Both the Charter and the summary documentation set out victims' key entitlements as they move through the criminal justice process. Information is also now given by service providers at key points in the process.

When a crime is reported to the police a victim of crime information leaflet is provided, or victims are advised where this is available. This sets out the key stages in the criminal justice process and the services that are available, as well as details of a range of specialist support organisations. Victims contact details are provided to Victim Support NI, in order that they can be advised about available support services (which can include referral to specialist support organisations). A victim is then notified by the Victim and Witness Care Unit when the full investigation file is submitted by the police to the Public Prosecution Service for consideration. Leaflets are also sent out at that point, advising on the services provided by the Victim and Witness Care Unit and Victim Support NI as well as setting out the role of the Public Prosecution Service and the part that they play in the criminal justice process.

An information leaflet is provided to victims, as follows. When:

- a decision to prosecute is taken, information is sent about Victim Support NI;
- a person is to give evidence at court, a leaflet is sent out providing information about the relevant court as well as the NSPCC Young Witness Service and the Victim Support NI Witness Service; and
- the case outcome is being notified, a sentencing leaflet⁷ is provided as well as a leaflet on the victim information schemes⁸ (where this is relevant).

⁷ www.dojni.gov.uk/sites/default/files/publications/doj/sentencing-leaflet.pdf

⁸ www.nidirect.gov.uk/pbni-victim-information-scheme-application-form.pdf?rev=0

A small credit card sized information card, setting out some of the key rights under the Victim Charter is also available from a range of key service providers and voluntary sector organisations, including Women's Aid.

In the context of domestic violence and abuse incidents being reported to the police there is a DASH (Domestic Abuse, Stalking and Honour Based Violence Risk Identification, Assessment and Management Model) risk assessment process. At this point victims should be advised about the specialist support services that are available, from organisations such as Women's Aid and the Men's Advisory Project.

Engagement and contact with the police

Contact with police officers

A range of views, both positive and negative, were expressed by participants about their experience of dealing with the police in relation to domestic violence incidents. The research confirmed that victims are benefitting from the services provided by PSNI Domestic Abuse Officers. While there was positive feedback from victims on their engagement with police officers, some raised issues in relation to the attitude and understanding of some (excluding Domestic Abuse Officers). This included their perception of unsympathetic treatment, not being believed and a lack of understanding about domestic violence.

The police have undertaken a range of steps to improve the knowledge and awareness of officers of the importance of domestic violence and abuse. Over the past year, more than 3200 police frontline officers have completed domestic abuse awareness training. In addition, all new police recruits receive domestic abuse training from Women's Aid, which emphasises the need for officers to be empathetic and understanding in all domestic abuse incidents. Continuing action will be taken in terms of raising the awareness of officers in this area.

The police also appoint Domestic Abuse Officers to high risk cases and/or those cases where there have been three or more incidents in a 12 month period. Since 1 April 2015, Domestic Abuse Officers have been working on a shift basis, which has extended their hours to ensure better coverage on weekdays, evenings and weekends.

Provision is also made in the Victim Charter, which was placed on a statutory footing in November 2015, setting out the standard of treatment for victims. This entitles victims to be recognised and treated in a courteous, dignified, respectful, sensitive, tailored, professional and non-discriminatory way by those that provide services under the Charter, which includes the police.

Timing and consequences of making a statement

The research participants indicated that they were content with the response time of the police to domestic abuse or violence incidents. However, concerns were expressed by some in relation to how difficult they found making a statement so soon after the incident and fear about the consequences of making the statement.

There was also a lack of awareness among participants of the importance and significance of ensuring they provide as much detail as possible in their statement.

It is appreciated that having been involved in a domestic violence or abuse incident can be traumatic and leave individuals shaken. However, it is important that documentation of the incident (and the associated identification of a suspect) does not adversely impact on the ability to pursue or progress the investigation and secure access to justice. It is also important that statements are taken as soon as possible after the incident has occurred, taking account of the concerns expressed, in order that the police investigation can commence. However, the police will aim to be flexible with regards to where the statement is to be taken, dependent on the nature and seriousness of the incident, and where possible can take the statement at an alternative location such as the individual's home or a Women's Aid office. However, delays in taking a statement could give rise to difficulties in terms of the police being able to progress the investigation or apprehend a suspect. Furthermore, it could lead to family or outside intervention that may affect the evidence that is given and the ultimate case outcome.

The Victim Charter outlines 13 entitlements related to making a statement and these include having the purpose of the statement explained, carrying out a needs assessment, keeping the number of interviews or questioning to a minimum, asking for a break at any time and reading over the statement to check for inaccuracies. In terms of victims awareness of the importance of providing as much detail as possible this is something that could be further promoted as part of police training and be included in leaflets that issue when a crime is reported.

More generally, the research highlights the importance of victims being provided with reassurance in terms of protection measures that may be available to them where they consider that their safety is at risk. Where an individual has concerns about their safety they should report this to the police, for consideration of what action it may be possible to take.

Assessment of Risk

Feedback from the workshops raised concerns about the assessment of risk, with an example given of a DASH (Domestic Abuse, Stalking and Honour Based Violence Risk Identification, Assessment and Management Model) form being completed over the telephone. Presently all police forces in the UK use the DASH form, as do all MARACs (Multi-Agency Risk Assessment Conferencing). The College of Policing is currently undertaking a review of the DASH form.

All new police recruits receive training from the MARAC Co-ordinator on the use of the DASH, and MARAC processes before they are deployed to stations. Officers also have an Aide Memoire that can assist them in the completion of the DASH form. The process for completing the DASH form has been improved, with this to be completed for all domestic abuse or violence incidents and submitted electronically. As part of the DASH process victims will be asked if they want to be referred to specialist support services such as Women's Aid or the Men's Advisory Project. Section 36 of the Justice Act (Northern Ireland) 2015 also provides that the details of all victims are now passed to Victim Support NI, when a crime is reported, so that

they can be advised about available services. As before, there is no obligation on victims to use these services, rather the intention is to ensure that an informed decision can be made.

In terms of the DASH form content, these should not be completed, with the victim, over the phone. This is important given that the questions within that form could lead to the disclosure of an offence, which would require a statement to be completed documenting the offence, which it would not be possible to complete over the phone. Steps will be taken by the police to reinforce the proper protocol in relation to this.

Evidence Gathering

The gathering and use of evidence was picked up on in the research by a small number of participants, who felt that in their case information had been overlooked and evidence left behind at the scene.

The police endeavour to maintain the highest standard, in terms of investigatory conduct. However, any concerns raised will be looked into, with steps taken to redress this where necessary. In addition, a checklist of what is needed (in terms of evidence provision) is now included in the Service Level Agreement between the police and the Public Prosecution Service, which was revised in July 2015. Officers are required to use this checklist to ensure that all evidential and other sources of information have been obtained before the case is submitted to the Public Prosecution Service for consideration. This should ensure that instances of insufficient or incomplete evidence are minimised.

Lack of continuity

In relation to contacts within the criminal justice system, it is understandable that victims find it helpful to deal with the same police officer for the duration of their case and the research confirms this. However, it also identifies the issues faced by some victims when they have to deal with different officers and in some instances retell the detail of the incident. One victim also felt that it would have been helpful to have contact details in order to enquire about the case.

In more serious incidents the police will appoint a specialist Domestic Abuse Officer, which provides continuity for the victim in terms of a point of contact for the duration of the investigation. These are dedicated officers, in local areas, that provide support and information about police procedure and legal proceedings. More generally, all police officers have access to a certain amount of information about a case on their system, which should reduce the requirement for the victim to retell their story, should they contact the police through the '101' call management system. Should an individual wish to speak to a particular officer their contact details can be left for the officer to get in touch when they are next on duty.

Changes in relation to reporting a crime have also been introduced in recent years and include the revision of the information leaflet provided when a crime is reported. Under the Charter victims of crime are entitled to receive a written acknowledgement that will include a crime reference number, the name and contact details of the investigating officer and the police station where they are based. This enables

victims to contact the officer or, if unavailable, be put through to the contact information unit. The duty officers should be able to assist or pass a message onto the appropriate officer.

Harassment

While domestic violence can take on a variety of forms for a number of those interviewed this included harassment of some type. There was concern expressed in some of these cases about the time taken for the police to appreciate that harassment had occurred and for action to be taken. Some also felt that the police should advise on harassment orders. In terms of the latter, while the police can take action where an offence has been committed, any request for a non-molestation order, which is a civil order, has to be taken forward by the individual victim. This is not a matter for the police to progress.

While victims understandably want a matter to be resolved as quickly as possible the action that police officers can take is ultimately dependent on the allegation made and the offence that has been committed. This can restrict the action it is possible to take.

The Department is current consulting on the introduction of a specific offence of domestic abuse, covering 'controlling and coercive behaviour in an intimate or family relationship'.⁹ This offence would protect victims from sustained patterns of psychological and emotional abuse and would criminalise patterns of coercive and controlling behaviour. The consultation also covers the issue of a domestic violence disclosure scheme.

The Department also plans to introduce domestic violence protection notices and domestic violence protection orders into Northern Ireland, which will provide immediate emergency protection for victims of domestic violence. It is anticipated that these will be piloted in 2016.

It is hoped that, taken together, this range of measures will strengthen the protections available to victims of crime.

Serving of civil orders

Where someone has been the victim of domestic violence they can apply for a court order (non-molestation order), intended to protect them from being harmed or threatened further by the person that has abused them. Breaching this order is a criminal offence and the person can be arrested.

Workshop feedback highlighted the importance of prompt service of civil orders and that victims are advised when these orders are served. One victim raised concern about police officers' awareness of non-molestation orders being in place and the victim not being informed when an order was updated.

⁹ www.dojni.gov.uk/sites/default/files/consultations/doj/consultation-domestic-violence.PDF

There have been beneficial changes made to improve the process for serving non-molestation orders and advising victims of this. The order is now issued electronically to the police and then served on the individual. The police are now also responsible for notifying the victim that the order has been granted, with up to two attempts made to do so. Furthermore, the electronic system ensures that police officers have up to date information at hand in relation to orders that are in place, where either victims require information or an offender has to be located. Revised arrangements for the receipt, processing and management of civil orders have been in place since 19 January 2015.

Where restraining orders are imposed by the court, as part of the case outcome, victims will be notified of this by the Victim and Witness Care Unit. The court is also updated once an order has been served or if repeated attempts to serve have been unsuccessful. In these circumstances the court can try to ascertain if an alternative address for the respondent can be provided.

Support Services

The research showed support for the services provided by Criminal Justice Workers, who are employed by Women's Aid, funded through PCSPs. There was support for the continuation and expansion of the use of these services. While acknowledging the support for these services the provision of any new, or expanded services, will ultimately be conditional on funds being available and how this can be put to best use in the context of other resourcing pressures. Consideration would also have to be given to any overlap with existing services.

Effective communication about case progression

The research identifies the importance of victims being kept up to date with the progress of their case and reports on the mixed findings in this area.

During the police investigation stage, the Charter provides that victims are entitled to receive an update from the police (within 10 days) on what they are doing to investigate the crime. The police will also agree with the victim what further updates are to be provided, as appropriate.

The Victim Charter, which was placed on a statutory footing in November 2015, sets out that victims are entitled to receive a range of information. At the police stage this includes the following information:

- what to expect from the criminal justice system;
- crime reference details;
- information on help and support available (including information on specialist support organisations); and
- decisions not to proceed with or end an investigation.

Once a decision has been taken to prosecute the Victim and Witness Care Unit will then provide information to victims at key stages in the process, with the first contact occurring when the case file is submitted by the police to the Public Prosecution Service.

Engagement, contact and communication with the Public Prosecution Service

Pre-trial contact

Less than half of the victims interviewed reported having had contact with the Public Prosecution Service prior to the court proceedings. While the views reported were mixed, victims did appear to expect a greater level of contact.

With the roll out of the Victim and Witness Care Unit from May 2014, which is staffed by both police and the Public Prosecution Service, victims and witnesses are kept updated on the progress of their case during the prosecution process through an appointed case officer whose details they will be provided with. In Crown Court cases, typically the most serious cases, the victim will receive updates from the Victim and Witness Care Unit at least every three months.

As set out in the previous section, the Victim Charter provides that a victim is entitled to a range of information about their case. Victims can contact their case officer at any point to request further information and updates. Should they have queries that they wish to raise with the Public Prosecution Service this can be arranged.

Interaction with Public Prosecution Service prosecutors

Victims reported both positive and negative experiences of their engagement with Public Prosecution Service prosecutors (Panel Counsel) at court. Some of the concerns raised by victims related to the time available to discuss the case, the level of detail and explanation as to what would happen and the attitude of some panel counsel, which some felt was cold and stand offish.

One victim found the meeting with the prosecutor challenging and felt that victims would benefit from knowing to expect some difficult questions as part of the process and to be prepared for this. Concerns were also expressed by some that the language used by prosecutors, both in written correspondence and at court, can be difficult to understand.

Guidance issued to all Public Prosecutors and Panel Counsel in May 2014, with regard to consulting with victims and witnesses. In addition, the Public Prosecution Service's Victims and Witness Policy has been redrafted and will issue for consultation during 2016. Following publication of the final policy, training will be provided to both Public Prosecutors and Panel Counsel. They will be required to act in accordance with the revised policy.

The Victim Charter also outlines that victims are entitled to receive information from the Victim and Witness Care Unit to help them prepare for going to court and understand the court process, in advance of giving evidence, so that they know what to expect. When the full investigation file is submitted by the police to the Public Prosecution Service for consideration, a leaflet setting out the role of the Public Prosecution Service and the part they play in the criminal justice process¹⁰ is provided to victims by the Victim and Witness Care Unit.

¹⁰ [www.ppsni.gov.uk/SiteDocuments/PPS%20Press%20Office/The%20Role%20of%20the%20Public%20Prosecution%20Service%20\(revised%202010\).pdf](http://www.ppsni.gov.uk/SiteDocuments/PPS%20Press%20Office/The%20Role%20of%20the%20Public%20Prosecution%20Service%20(revised%202010).pdf)

More generally the Public Prosecution Service is updating their victim and witness policy to incorporate changes introduced through the creation of the Victim and Witness Care Unit and the publication of the Victim Charter. Guidance issued to all Public Prosecutors and Panel Counsel in early 2015, followed by updated guidance in November 2015 when the Charter was placed on a statutory footing. A number of Public Prosecutors also requested further training, which has been delivered.

Further steps have also been taken to improve the service provided by Panel Counsel. Under a new contract, the Public Prosecution Service has included a clause requiring Panel Counsel to attend mandatory training relating to the care and support of victims and witnesses and particular crime types. Public Prosecution Service staff are also required to undergo training in these areas.

Updates on case progression

Issues around updates being provided on the progress of the case and information regarding adjournments were raised by several victims during the research. It is envisaged that the roll out of the Victim and Witness Care Unit will have addressed a number of the issues raised, with the establishment of a single point of contact.

The Victim Charter gives a commitment that the Victim and Witness Care Unit will provide regular updates to the victim on the progress of the case. The case officer within the Victim and Witness Care Unit is also the single point of contact for the victim, should they wish to obtain a further update or information about the case. They can be contacted at any point should a victim have a query about the progress of their case. Where the case is dealt with at Crown Court, which deals with the most serious cases, at least three monthly updates are provided to victims.

The Victim Charter also provides that a victim is entitled to be informed if there is a delay in proceedings and the reason for this. More generally it sets out that victims will be provided with the following information:

- a decision not to prosecute someone;
- the offences for which the accused is being prosecuted;
- the date, time and location of key court hearings (trial, sentence and appeal);
- help and support available to victims;
- the outcome of relevant bail hearings (where this directly affects the victim) and the trial;
- claiming expenses, if asked to give evidence;
- claiming compensation (on request); and
- victim information schemes (where relevant).

Where there are concerns about the provision of services, or the extent to which entitlements have been delivered, these should be raised with the service provider in question in the first instance. If not satisfactorily resolved the matter can be raised with an independent body

Practical issues at court including court facilities

Attending Court

Victims found attending court an unfamiliar and, at times, difficult experience with some issues around uncertainty of where to go. One person made reference to what they perceived to be an unhelpful staff member.

It is only natural that people will find the experience of going to court somewhat daunting. Given this, a number of measures are in place to reassure victims and increase their awareness of what attending court entails. Under the Victim Charter victims are entitled to ask for a court familiarisation visit. This can be arranged either through the Victim and Witness Care Unit, the Northern Ireland Courts and Tribunals Service, Victim Support NI or NSPCC Young Witness Service. As part of that visit, staff can explain what to expect when attending court and answer any general queries about what will happen at court. Those who will give their evidence using the live link facilities can also arrange to use these, where available. Victims are also entitled to have victim support service providers explain to them what happens in court. Where they are to give evidence they are entitled, under the Charter, to have witness services offered to them and be given the opportunity to visit the court.

In terms of the conduct of staff in courthouses the main reception desks are staffed by a security contractor, who are required to complete customer service training. Should anyone have concerns about the conduct of staff these should be raised with the Northern Ireland Courts and Tribunals Service so that this can be investigated. The findings will be shared with the security contract manager.

The Victim Charter also requires service providers to ensure that officials likely to come into contact with victims receive both general and specialist training to a level appropriate to their duties and the nature and level of contact with victims of crime. This training should increase their awareness of the needs of victims and enable them to recognise victims, as well as deal with them, and provide services in an impartial, respectful, sensitive, tailored, professional and non-discriminatory manner.

Encountering the defendant

Fear of meeting the defendant at court was another concern raised by those taking part in the research.

Where a person is giving evidence, they will be provided with a place to wait by a witness support service provider, which is away from the defendant, their family and supporters. If requested from witness support services or court security officers, a victim can be seated as far from the defendant as possible and can be escorted in and out of the courtroom.

The Victim Charter also gives a commitment that a victim is entitled to ask the Northern Ireland Courts and Tribunals Service if they can enter the building before other members of the public or enter the court building through a separate entrance from the defendant and their family and friends. This may be facilitated through witness support services, however, not all court buildings have separate entrances.

Waiting at court

Availability of a separate waiting area at court was noted as a positive facility. Some suggestions from victims for improvement included the availability of tea/coffee facilities, being able to have a 'carer' with them while at court, childcare services and safe waiting areas.

Tea and coffee is provided by the Witness Service in their dedicated waiting rooms. However, in some courts, due to the constraints of the building, dedicated Victim Support waiting rooms are not available. There will nevertheless be witness waiting rooms in all courthouses; in some courthouses these will be shared with NSPCC Young Witness Service and Women's Aid. Refreshments may be obtained from the facilities available within that courthouse. In a small number of courthouses refreshment facilities are not available, due to not being economically viable.

In terms of support at court, witness support services are provided to assist victims and witnesses when they attend court and are an entitlement under the Victim Charter. As part of this victims can ask to be accompanied throughout the court process. This can include, where possible, giving evidence if permitted by the court.

In terms of childcare facilities, while these are not available at court, a victim can claim expenses if they have had to employ someone to provide childcare while they attend court to give evidence.

Remote TV link

Only two victims indicated that they had used a remote TV link to give evidence, which enables a victim to give evidence from another room within the court (or in some instances away from the court). They expressed concern that they felt isolated from what was going on in the courtroom as they were unable to see what was happening, watch the offender give evidence or see the jury.

One of the advantages of victims using the link room to give evidence is that they are protected from the potentially imposing and intimidating environment of the courtroom. At a pre-trial visit to the court, the process of giving evidence via the link is demonstrated to them, and as Special Measures are optional, they may decide that they would prefer to give evidence from within the courtroom.

The issue was raised of watching proceedings after the person has given their evidence. If the live link facility is not in use and Witness Service/Northern Ireland Courts and Tribunals Service staff are available to monitor the link room, it may be possible for victims to watch the remainder of the case from the link room. This is not usually permitted before they give their evidence, but would be a matter for the court.

Equipment at Court

One victim described how the court case had to be adjourned due to the equipment in the court not working. While Northern Ireland Courts and Tribunals Service staff wish to avoid this where at all possible it should be noted that all court equipment is tested regularly, in advance of its use for special measures. In this situation it is likely that there was a technical failure which could not have been avoided.

Support services at court

The Victim Support NI Witness Service provides support for prosecution witnesses called to give evidence at court. While there were many positive experiences of the services provided by the Witness Service there were a couple of negative examples where the Witness Service supporter failed to turn up. In another case the victim felt that the supporter was quiet, providing little interaction and support. Attendees at the Women's Aid workshop also felt that victims could benefit from extra support at court.

Victim Support NI will provide a supporter for witnesses in court in all cases that are referred to them in advance. The normal practice within the Witness Service is that if a supporter fails to turn up on the day another volunteer or member of staff would step in to provide the support.

In terms of interaction with victims all Witness Service volunteers complete core learning, followed by shadowing with more experienced volunteers or staff to ensure that they provide support appropriate to the witnesses' needs. Obviously, the skills of new volunteers develop as they gain more experience.

Delay and adjournments

It is understandable that victims will want to have their case dealt with as soon as possible with fewer adjournments. Some of the research participants expressed concern over delays that occurred and the adjournment of the case, particularly when they were not aware of the reason for this. It was suggested that regular updates on the status of the case would be helpful.

The Victim Charter sets out what information victims are entitled to receive, and when, as their case progresses. This includes the date, time, location and outcome of the following hearings – arraignment (this type of hearing happens only in the Crown Court and is when the defendant enters a plea of guilty or not guilty at the outset of proceedings in that court), trial, sentencing and (where applicable) any appeal. It also provides that at these points a victim is entitled to be informed if there is a delay in proceedings (i.e. that the hearing will not take place on the date advised) and the reasons for this.

The Victim and Witness Care Unit is responsible for providing information at key stages in the process. Where possible, the victim will be notified in advance of a delay in the date of the relevant hearing; in some cases it may only be possible to advise of this at court on the day of the hearing. Where it is known at least a week in advance that the trial won't go ahead on the scheduled date, the victim will be

notified by the Victim and Witness Care Unit. Where this occurs with less than one week prior to the trial, notification will normally be either by the police officer in charge, or prosecuting counsel at court if postponement is on the day of the trial. In these cases counsel will advise the victim of the reason for the postponement.

On the issue of delay in the criminal justice system more generally, at times, cases do take longer to go through the system than planned for, which creates an additional burden for those that have suffered as a result of the crime. Steps are being taken to address this with the Department of Justice, in partnership with senior leaders in the criminal justice agencies, overseeing a programme of work to transform the performance of the criminal justice system. This includes a range of procedural, legislative and structural reforms intended to speed up criminal case progression and improve the efficiency and fairness of the system.

The Justice Act (Northern Ireland) 2015 proposes important new measures to speed up the criminal justice system. It includes measures to reform the committal process (used to determine whether there is sufficient evidence to justify putting a person on trial in the Crown Court) and abolish the use of committal in cases involving murder and manslaughter. It also includes measures to encourage earlier guilty pleas and a statutory framework for the management of criminal cases, enabling the Department to impose duties on the prosecution, defence and the court in terms of what must be completed prior to the commencement of a case. These provisions will require that legal representatives have made all the preparations necessary for court stages of proceedings, which should help speed up the progression of criminal cases by reducing the need for adjournments.

The Department will also be able to impose a general duty on all persons exercising functions in criminal proceedings in the Magistrates' Courts and Crown Court to reach a just outcome as swiftly as possible. The duty will take particular account of the need to identify and respect the needs of victims and witnesses. It is hoped that these measures will encourage those who are guilty to admit their guilt early on, reduce the burden on victims and witnesses and increase the capacity for the courts to deal more effectively with contested criminal cases.

In terms of the issue of waiting times at court a working group, consisting of representatives from the Northern Ireland Courts and Tribunals Service, the police, the Public Prosecution Service, NSPCC Young Witness Service, Victim Support NI and the Lord Chief Justice's Office, was established to look at this matter. As a result of the collaborative working a protocol is being considered to govern practice, at this stage, at Magistrates Court.

In addition, criminal justice agencies have ran a pilot aimed at speeding up indictable cases (more serious cases which are dealt with in Crown Courts). The pilot was launched in January 2015 in the Ards Crown Court Division and ran until the end of December 2015. This involved a number of changes to how cases are investigated and prepared in order to reduce delay. At this stage, these are being applied to murder and manslaughter cases.

An additional successful pilot was undertaken in Londonderry, where special listing arrangements were tested to minimise the amount of time that victims of domestic violence and abuse have to wait at court.

This is a court session in which only contested cases with domestic violence offences are listed. It was developed to try to make it easier for victims to come to court and give evidence by having all the available support services onsite at one time. The arrangement has been extended there to include a pre-trial review session for all domestic violence cases. The benefits of this for domestic violence victims are:

- the prioritisation of cases at the start of the morning, taking into account childcare commitments of those who are attending court
- Victim Support NI's Witness Service offer a range of support services, including a pre-trial court visit, information about court, and a separate waiting area etc.
- there are regular review hearings, which require updates and encourage the quick progress of cases;
- the Foyle Women's Aid's Court Support Worker can offer support before the hearing, while at court, and after the hearing;
- that they may enter the courthouse through a private entrance, so they will not come into contact with the defendant or defence witnesses;
- that they may wait in a private witness room, away from the public area; and
- that if they have any specific requirements or concerns about coming to court, court staff, Women's Aid, Men's Action Network or Victim Support are able to help, if they can.

The Department has committed to considering the extension of the use of these special court listing arrangements into other court areas.

Victim Personal Statement

For those that took part in the research there was a low level of awareness of victim personal statements.

The Department formalised the process for making a victim personal statement in December 2013, following consultation. It was recognised that victims need to have as much time as possible to consider preparing a statement, with guidance provided on the content of this. The purpose of the revised process is to advise victims of the victim personal statement facility at an early point in the process, although the statement itself is not considered until after a defendant has pleaded guilty or been found guilty and ahead of sentencing.

When the Victim and Witness Care Unit advise a victim of a decision to prosecute, a leaflet on the victim personal statement¹¹ issues, setting out the purpose of the statement and what it can and can't include. The leaflet also advises that support is available to prepare the statement (from Victim Support NI, NSPCC Young Witness Service or a police Family Liaison Officer in murder/manslaughter cases).

¹¹ www.dojni.gov.uk/sites/default/files/publications/doj/victim-personal-statement.PDF

The Justice Act (Northern Ireland) 2015 provides that a victim is entitled to be given the opportunity to make a victim personal statement, setting out the impact that the crime has had. The legislation also sets out that, where a person has been convicted, the court must, in determining the sentence, have regard to those parts of the statement that are relevant to the offence.

The issue was also raised about how the statement impacts on sentencing. While the victim personal statement can help to provide the judge with more information on the impact of the crime when passing sentence, final decisions on the sentence granted will be a matter for the judge.

Sentencing

The research reflected mixed views in relation to the appropriateness of sentencing. As expected, more satisfaction with the sentence given was noted when longer periods of custody were imposed. For those whose cases involved suspended sentences or probation orders, there was a general feeling that these provided more protection to the victim where supervision was applied for a longer period of time.

It should be noted that the judge alone decides the sentence to be given to a convicted person, though they are guided by a number of factors, including:

- the maximum sentence they can give, which is usually set out in law;
- whether the defendant pleaded guilty or not (if the person pleads guilty the judge can reduce the sentence);
- the level of sentences in similar cases in the past; and
- aggravating or mitigating circumstances, which may increase or decrease the sentence.

The final sentence granted may be less than the maximum that is available, due to the individual circumstances of the case, and will ultimately be for the judge to determine. The views of the victim can only be taken into account in so far as information provided in any victim personal statement, about the impact of the offence, is relevant.

Some participants in the research raised concerns about not receiving written notification of the sentence imposed, while others were unclear about the meaning of the sentence.

Under the Victim Charter the Victim and Witness Care Unit are required to inform victims, without unnecessary delay, of the final outcome of criminal proceedings and the trial. This includes a short explanation about the meaning and effect of any sentence. A new sentencing leaflet¹² was introduced in March 2015, which provides information on sentencing outcomes. Should a victim have queries about the outcome of proceedings, or the sentence imposed, they are also entitled to contact the Victim and Witness Care Unit in relation to this.

¹² www.dojni.gov.uk/sites/default/files/publications/doj/sentencing-leaflet.pdf

Communication with victim information schemes

For those who participated in the victim information scheme there were some concerns around limited contact with the schemes, a lack of acknowledgement when information was provided to the schemes and not being advised of the exact date of the offender's release. The Victim Charter and the information provided by the Victim Information Unit set out the circumstances in which a victim is entitled to be notified about the release of an offender and what information will be provided.

These schemes apply where an offender receives a sentence of six months or more; few of the cases in the research group fell into this category. Where a victim registers with the scheme, or submits any form of written representation, letters of acknowledgement are issued.

In terms of release information victims are advised in advance of the year and month in which a prisoner is to be released, not the exact day. It is not legally permitted to advise of the release date in advance. In addition there are safety concerns and the need to avoid the possibility of the offender being targeted on release. Victims are contacted on the day of release, where practicable, to advise them that release has taken place. Where significant risk concerns are identified beforehand these can be communicated to the police Public Protection Units, who can inform the victim based on the risk.

Miscellaneous issues

Consistency of services

Feedback from the workshops held with Women's Aid representatives highlighted the importance of victims being able to access support services when the crime occurs and the need for consistent regional services.

In November 2015, the Department introduced information sharing arrangements which ensures that victims' details are now automatically referred to Victim Support NI, when a crime is reported to the police, so that they can be advised of available support services. Also, as part of the DASH process, which is completed for all domestic incidents, the police ask victims if they want to be referred to specialist support services such as Women's Aid, Rainbow or the Men's Advisory Project. Where individuals are to give evidence at court they will automatically be referred to Victim Support NI's Witness Service.

In relation to consistent regional services, the Department funds Victim Support NI, which offers support to all victims of crime and adult prosecution witnesses across Northern Ireland. The organisation is moving to a two hub model, which will strengthen the consistency of approach across the organisation.

Bail information

Some participants at the workshop with Women's Aid referred to the lack of victim representation at bail hearings and difficulties in accessing information about changes to bail conditions. Under the Victim Charter, a victim is entitled to be

notified by the Victim and Witness Care Unit of the outcome of relevant bail hearings, where this directly affects them.

Decisions on bail are normally reached very soon after the crime has been committed, while the investigation is at an early stage and before a full file has been provided to the Public Prosecution Service. When someone is released from police custody to return at a later date to allow police to complete their investigations, bail conditions can be applied by the police. If there is a breach of these conditions the person can be arrested or the evidence may be used to enforce remand or court bail conditions. If the breach of conditions puts someone at risk of harm or injury the person can be arrested. The court may decide to remand them until the investigation is complete.

Where a person has been charged with offences in police custody there may be conditions attached. If these are breached the person can be arrested and taken to court, where a decision would be taken on whether or not they are held or released on court bail conditions.

Decisions on granting court bail are a matter for the judiciary, who are wholly independent. The law states that there is a presumption that the accused person will be granted bail, unless there are relevant and sufficient reasons to justify their continued detention. This is reinforced by the right to liberty under Article 5 of the European Convention on Human Rights. Bail can only be refused by the courts if there are substantial grounds for believing that the accused will fail to surrender to custody, will interfere with witnesses or otherwise obstruct the course of justice or commit offences while on bail. A victim's views on bail cannot be taken into account, unless they align with one of these reasons. A judge may decide to grant bail subject to certain conditions, where it is considered that this would alleviate the risks set out above.

Where a victim has any concerns in relation to the defendant being granted bail, these should be communicated to the officer in charge of the case who, in turn, can pass these on to the Public Prosecution Service. In certain circumstances the prosecution may be able to ask the judge to impose conditions such as no contact with the victim, or any of the prosecution witnesses in the case or a curfew. It should be noted that it is a criminal offence to interfere with a witness and any such interference should be immediately reported to police. In addition, should the defendant breach any of the conditions of bail, he/she can be arrested by police and brought back before the judge. If appropriate, the prosecution may ask for the judge to revoke bail and remand the defendant in custody.

Domestic Violence and Abuse Strategy

During the Women's Aid workshop reference was made to the Department's draft Domestic and Sexual Violence and Abuse strategy and the need for this to be adequately resourced. The Department remains committed to a number of initiatives related to the strategy as set out in this response paper, including:

- domestic violence protection orders;
- domestic homicide reviews;

- special listing arrangements;
- the potential for a domestic violence disclosure scheme; and
- a possible offence that captures patterns of coercive and controlling behaviour in intimate and familial relationships.

While the Department remains focused on taking forward these and other priorities associated with domestic violence and abuse there is a need to take into account current funding constraints when considering the development and delivery of new work.