



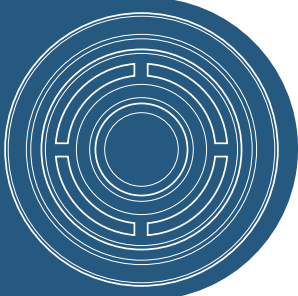
WITHOUT WITNESS

PUBLIC PROTECTION INSPECTION I:

A THEMATIC INSPECTION OF THE HANDLING OF
SEXUAL VIOLENCE AND ABUSE CASES BY THE
CRIMINAL JUSTICE SYSTEM IN NORTHERN IRELAND

November 2018





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November 2018



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List of abbreviations

ABE	Achieving Best Evidence (interview technique)
CJI	Criminal Justice Inspection Northern Ireland
CPS	Crown Prosecution Service (in England and Wales)
CRU	Central Referral Unit (within PSNI)
CSE	Child Sexual Exploitation
DIR	Decision information request
DoH	Department of Health
DoJ	Department of Justice
FSNI	Forensic Science Northern Ireland
ISVA(s)	Independent Sexual Violence Advocate(s)
HMCPSI	Her Majesty's Crown Prosecution Service Inspectorate (in England and Wales)
HMICFRS	Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services
NICTS	Northern Ireland Courts and Tribunals Service
OCMT	Occurrence Case Management Teams
PCSP(s)	Policing and Community Safety Partnership(s)
PEEL	Policing Effectiveness, Efficiency and Legitimacy inspection programme (HMICFRS)
PPS	Public Prosecution Service for Northern Ireland
PSNI	Police Service of Northern Ireland
RASSO	Rape and Serious Sexual Offence
RCU	Rape Crime Unit (within PSNI)
UK	United Kingdom
VAWG	Violence against Women and Girls
WHO	World Health Organisation



Terminology

'Prosecution team'

This refers to the joint investigation and prosecution team involved in the case. It would therefore include police officers and staff involved in the investigation stage, prosecutors making decisions on the case and appearing before the court and others involved in advising on or dealing with the case, for example forensic staff, prosecution counsel etc.

'Violence and abuse'

In undertaking this inspection CJI mirrors the use of the terms 'violence' and 'abuse' as outlined in the Department of Health (DoH)/Department of Justice (DoJ) Strategy; that is intended to encompass all forms of abusive behaviour.*

'Victim'

Similarly CJI uses the term 'victim' to describe anyone who has been subjected to a sexual offence but this also encompasses anyone described as a 'survivor', 'injured party', 'complainant' or 'witness'.

* This is the 'Stopping Domestic and Sexual Violence and Abuse in Northern Ireland: A Seven Year Strategy' document.



Chief Inspector's Foreword

Changes to social attitudes and norms across the developed world have supported the increased reporting of sexual violence and abuse and globally, criminal justice systems are struggling to provide an effective response. It is fast becoming one of the most serious social issues for this generation.

The challenge of investigating and prosecuting cases of sexual crime where there is often little by way of corroborating evidence is significant. This is particularly the case where the issue is one of consent or where the offences are historical. The ever increasing presence of digital technology and social media add to the difficulties of evidence gathering, to the increasingly problematic area of disclosure and the ongoing impact on the victim and suspect. This report concludes that the criminal justice processes in Northern Ireland for handling these cases take too long, are too expensive and conclude with, all too often, a failure to deliver an acceptable outcome for victims.

The seriousness of some of these offences means that when the suspect is identified and the evidential test is met, a trial in the Crown Court will normally follow. The criminal sanctions that can be imposed after a guilty verdict together with the licence conditions and/or restrictions, monitoring on release and the social stigma around sexual offending, create a high stakes

situation for those accused. This may be reflected in the high numbers of adjournments at court and low levels of guilty pleas. This ultimately causes delay, prolongs the trauma on victims and potentially leads to their withdrawal from the case.

The adversarial nature of the criminal proceedings means that victims become witnesses for the prosecution. They are subjected to intensive cross examination where their most intimate behaviours and actions are examined and in the case of rape, the issue of consent becomes central to the outcome of the case.

This report makes three strategic recommendations and six operational recommendations which are designed to make improvements to the current processing of cases through the criminal justice system. Some of them are not new and have been highlighted in the past to both the police and prosecution services.

A faster, more efficient justice system - where victims are supported appropriately to give their best evidence - is in the best interests of everyone.

It is clear from our engagement with victims and victims groups, that one of the most important things for them in choosing to report the offences, is that they want their experience to be heard and to be believed and for the perpetrator to understand and accept what they have done is wrong. The criminal justice system, as it stands currently, frequently does not provide a satisfactory outcome for victims on any level.

This inspection and recent public debate about rape cases has raised wider issues about the societal approach to sexual relationships, consent and the media attention on cases which come to trial. There is more to be done to prevent these offences occurring in the first place by providing better education for children and young people about healthy relationships, changing societal behaviours and attitudes and early interventions for those at risk.

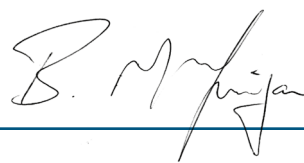
I believe the time is right for a more informed political and public debate on the role of the justice system in dealing with these complex issues.

We need a more creative approach incorporating restorative justice practice and, in appropriate cases, educational programmes for un-adjudicated perpetrators. Any change in approach must meet the needs of victims and keep them, and the public, safe. I welcome Lord Justice Gillen's review of the conduct of Rape Trials as an important step on this journey.

This inspection was led by Rachel Lindsay, David MacAnulty and Roisin Devlin. I am grateful for the assistance received from Her Majesty's Inspectorate of Constabulary and Fire and Rescue

Services (HMICFRS) and Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI), particularly Di Hurley, in conducting this inspection.

I am also grateful to all those victims and survivors of sexual violence and abuse who shared their experiences of the criminal justice system with us.



Brendan McGuigan CBE
Chief Inspector of Criminal Justice
in Northern Ireland

November 2018

Criminal Justice Inspection
Northern Ireland
a better justice system for all





Executive Summary

The issue of sexual violence and abuse in Northern Ireland

Sexual violence and abuse is a global problem as well as an increasing issue in Northern Ireland, as in the rest of the United Kingdom (UK). Crime figures for 2016-17¹ report the highest level of sexual offences recorded by the Police Service of Northern Ireland (PSNI) since 1998-99. These figures were against a backdrop of falling recorded crime overall, so that sexual offences and offences with a domestic motivation were an increasing proportion of the work of the criminal justice system. At the launch of the *'Stopping Domestic and Sexual Violence and Abuse in Northern Ireland: A Seven Year Strategy'* published in March 2016² it was noted that *'Victims and society need to be assured that the serious nature of this abuse is recognised, and that perpetrators will be held accountable for their actions'*³. Outcome rates for sexual offences, as calculated for the purposes of this inspection, were low across the UK, but lowest in Northern Ireland. This inspection considered the approach of the criminal justice system in Northern Ireland to handling sexual violence and abuse cases.

Strategy, governance and prevention

The *Stopping Domestic and Sexual Violence and Abuse Strategy* included a strand on protection and justice, with actions for the criminal justice organisations and the Department of Justice (DoJ) within the implementation plan. The PSNI had strategic outcomes for policing which included reference to protecting the most vulnerable. The Public Prosecution Service for Northern Ireland (PPS) annual business plans made reference to the work of the organisation in relation to sexual crime, but did not include any priorities in relation to particular crime types. The PPS should reflect the priority they place on dealing with domestic and sexual violence and abuse in future plans. The PSNI and Policing and Community Safety Partnerships (PCSPs) were involved in prevention work and the criminal justice system have an important role, as well as those working in education, health and social services, in educating the public about sexual and domestic violence and abuse.

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- 1 PSNI, *Police Recorded Crime in Northern Ireland: Monthly Update to 31 March 2017 (Providing final figures for 1st April 2016 to 31st March 2017)*, May 2017. Available online at: https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/police-recorded-crime-statistics/2017/march/monthly-crime-bulletin-apr-mar-16_17.pdf and PSNI, *Trends in Police Recorded Crime in Northern Ireland 1998-99 to 2016-17: Annual Bulletin*, 12 January 2018. Available online at <https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/police-recorded-crime-statistics/documents/police-recorded-crime-in-northern-ireland-1998-99-to-2016-17.pdf>
 - 2 Available online at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/stopping-domestic-sexual-violence-ni.pdf>
 - 3 See <https://www.health-ni.gov.uk/news/step-forward-tackling-domestic-and-sexual-violence-and-abuse>

PSNI first response, investigation and case building

The creation of C7 Public Protection Branch by the PSNI in 2015 had brought together investigators in public protection roles including rape crime, child abuse and domestic abuse. The establishment of a Central Referral Unit (CRU) to assess and manage referrals was a positive development. There had been, and continued to be, significant staffing challenges in the Branch, including high staff turnover at its inception, sickness absence and ensuring officers had the appropriate skills for the roles. The PSNI had recently received confirmation of additional resources to increase the staffing levels. The PSNI needs to continue to have a focus on this and ensure that resource distribution across the investigation teams is proportionate and sufficient to manage demand and victim confidence effectively.

The handling of requests for service from the PSNI contact centres and the first response to sexual offences from PSNI officers was generally effective and timely. The opening of The Rowan Sexual Assault Referral Centre was a positive development. There was evidence that suspects were arrested and interviewed promptly. Assessments of risk and vulnerability and consideration of victim safety were dealt with effectively in most cases, but there was scope to improve this, particularly as the case progressed. Delays were evident in some cases at various stages in the process including in recording initial statements from or conducting video interviews with victims; dealing with digital and medical evidence; and in dealing with digital evidence at court. The PSNI and the PPS should address this latter issue by engagement in the Northern Ireland Courts and Tribunals Service (NICTS) digital strategy.

Where pre-prosecutorial advice was requested and provided by the PPS this was generally completed in a timely and effective manner. There was evidence that there continued to be delays in submitting files to the PPS and that, at the time of the inspection, the efforts of the PSNI and the PPS to address the issues raised in previous Criminal Justice Inspection Northern Ireland (CJI) reports of file quality, disclosure, supervision of investigating officers and avoidable delay, had not yet led to significant improvements.

PPS decision making and case building

The PPS had established the Serious Crime Unit in 2016 which brought the direction and prosecution of all cases involving sexual offences into one team. There continued to be challenges in managing the workload against the resources available. A review was underway and CJI would hope that this would address the ongoing issues highlighted to Inspectors.

The Code for Prosecutors was applied correctly in most cases but Inspectors found there were improvements needed in the application of the Public Interest Test and adherence to the Rape Policy. Improvements are also needed in the handling of myths and stereotypes in cases involving sexual offences. There is an opportunity for the PSNI and the PPS to further build upon the structural changes that have been made in both organisations. The PSNI and the PPS should therefore develop an implementation plan to further develop the prosecution team approach for cases involving sexual offences to address the issues raised in this report.



Record keeping by prosecutors had been raised in previous CJI reports and there was evidence that the PPS still had more work to do to implement their own guidance in this area. There remains a need to ensure that the analysis of the case and rationale for decision making was recorded and was able to be quality assured. This should be addressed in the next six months. There continued to be challenges for the PPS in terms of victim withdrawal and the handling of disclosure and third-party evidence. Communication and consultation with victims was also found to be an area which the PPS need to undertake further work on in order to fully deliver the required standards. Whilst the PPS had allocated additional resources to the Serious Crime Unit and introduced a sexual assault prosecution clinic to speed up decision making for certain cases, avoidable delay continued to be a significant issue.

Trial and court process

Committal proceedings were in the process of being reformed but at the time of the inspection cases of serious sexual offences and child abuse were still required to be transferred to the Crown Court by a District Judge. Inspectors recommend that plans for direct transfer should include rape, serious sexual offences and child abuse at the earliest opportunity. Avoidable delays were also a significant feature of these types of cases where they were not ready to proceed at court, leading to high numbers of adjournments. This was compounded by low numbers of guilty pleas.

The PPS had made efforts to ensure that Counsel prosecuting cases involving sexual offences were appropriately trained and skilled and delivered an effective service on behalf of the PPS. Inspectors however identified areas where there was further scope to ensure the level of Counsel was appropriate for the type of case and that victims of sexual crime are treated sensitively.

The PPS should develop an action plan to set out how they intend to deliver improvements in this area.

The application of policy regarding victims and witnesses was complied with in just over half the cases in the prosecution sample and there is more to do to ensure all victims can access special measures, as is their entitlement. The support for victims at court from the two witness services was viewed positively by victims and victims' organisations.

In other jurisdictions there was guidance or legislation regarding the guidance given to juries about myths and stereotypes in sexual offences cases, which aids openness and transparency. Inspectors believe this type of legislation could provide similar benefits in Northern Ireland and should be included in the strategy implementation plan. Work by probation officers to deliver pre-sentence reports was viewed positively, as were assessments undertaken to make recommendations for sex offender programmes. It was noted that there was a lack of provision for un-adjudicated perpetrators in the community.

Victims' issues

Both the PSNI and the PPS had engaged with victims' organisations at a strategic level, including attending events where they could hear directly from victims about their experiences. Victims were generally positive about the service provided to them by police investigators, although concerns were raised about the turnover of officers and delays in taking statements or conducting video interviews. Victims however felt more disconnected from the directing officer in the PPS and did not appear to understand their role or how they made decisions.

Victims who remained engaged in the process had an over-riding desire to be able to tell their story and some went to great lengths to ensure that their voices were heard by the criminal justice organisations. There was an absence of statutory provision of Independent Sexual Violence Advocates (ISVAs) although a pilot programme by Victim Support Northern Ireland was a positive step.

Delay was highlighted as an issue by all victims spoken to, particularly for those reporting historical abuse. Victims with particular needs due to, for example, age or disability were especially impacted by avoidable delay.

The criminal justice agencies must do more to tailor their services to victims' particular needs.



Recommendations

Strategic recommendations

1

The PPS should develop their next and future corporate and business plans to reflect the priority the organisation places on dealing with domestic and sexual violence and abuse, through action planning and key performance indicators specifically related to this area of business (*paragraph 2.20*).

2

The PSNI and the PPS should produce an implementation plan to further develop the prosecution team approach for cases involving sexual offences within three months of this report (*paragraph 4.15*).

3

The Department of Justice (DoJ) should include, in Action 6 of the [Stopping Domestic and Sexual Violence] Strategy implementation plan, legislation which contains a requirement for jury directions to be given in sexual offence cases to enable them to approach court evidence in a more informed way (*paragraph 5.38*).

Operational recommendations

1

The PSNI should continue to assess and evidence that resource distribution across the areas of child abuse, rape crime and domestic abuse and adult safeguarding is proportionate and sufficient to manage demand and victim confidence effectively. The resourcing levels in the Public Protection Branch should be reviewed and re-assessed within a year of the publication of this report (*paragraph 3.16*).

2

The PSNI and the PPS should fully engage in the NICTS digital strategy and collaborate when developing and maintaining their own technology in order to ensure systems for the transfer of digital information across the justice system which are fit for purpose (*paragraph 3.47*).

3

The PPS should issue further guidance for prosecutors on the requirements to record their decision making rationale in a review note when applying the Test for Prosecution. The review note should be proportionate to the complexity of the facts, issues and risks in the case. This should be issued within six months of this report. In addition, the PPS should develop a quality assurance process to assess compliance with this guidance (*paragraph 4.26*).

4


The PPS undertake further work within six months of this report to fully deliver the standards contained in the Victim Charter and in the PPS Victim and Witnesses Policy, to ensure communication with victims is more empathetic, understandable, accurate, consistent and appropriate for the needs of the recipient (*paragraph 4.39*).

5

Once direct transfer to the Crown Court is established for murder and manslaughter cases, the DoJ should ensure that rape, serious sexual offences and child abuse offences be added to the list of specified offences under the Justice Act (Northern Ireland) 2015 (*paragraph 5.5*).

6

The PPS should, within three months of this report, develop an action plan to further improve how Counsel is utilised in cases involving sexual offences (*paragraph 5.19*).



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