

# **The care and treatment of victims and witnesses in the criminal justice system in Northern Ireland**

December 2011





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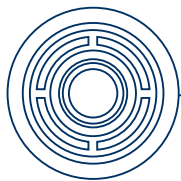
**Criminal Justice Inspection  
Northern Ireland**  
*a better justice system for all*





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## List of abbreviations

<b>ACC</b>	Assistant Chief Constable (in PSNI)
<b>ACPO</b>	Association of Chief Police Officers
<b>BCS</b>	British Crime Survey
<b>CJI</b>	Criminal Justice Inspection Northern Ireland
<b>CLT(s)</b>	Community Liaison Team(s) (in PPS)
<b>CMS</b>	Case Management System (in PPS)
<b>CPO(s)</b>	Case Progression Officer(s) (in NICTS)
<b>DoJ</b>	Department of Justice
<b>FLO(s)</b>	Family Liaison Officer(s) (in PSNI)
<b>HMCPSP</b>	Her Majesty's Crown Prosecution Service Inspectorate
<b>HMIC</b>	Her Majesty's Inspectorate of Constabulary
<b>ICOS</b>	Integrated Court Operations System
<b>NICEM</b>	Northern Ireland Council for Ethnic Minorities
<b>NICS</b>	Northern Ireland Crime Survey
<b>NICTS</b>	Northern Ireland Courts and Tribunals Service
<b>NIPB</b>	Northern Ireland Policing Board
<b>NIPS</b>	Northern Ireland Prison Service
<b>NISRA</b>	Northern Ireland Statistics and Research Agency
<b>NIVAWS</b>	Northern Ireland Victims And Witnesses Survey
<b>NOMS</b>	National Offender Management Service
<b>NSPCC</b>	National Society for the Prevention of Cruelty to Children
<b>OCMT(s)</b>	Occurrence Case Management Team(s) (in PSNI)
<b>OPONI</b>	Office of the Police Ombudsman for Northern Ireland
<b>PBNI</b>	Probation Board for Northern Ireland
<b>PPS</b>	Public Prosecution Service for Northern Ireland
<b>PRVIS</b>	Prisoner Release Victims Information Scheme (in NIPS)
<b>PSNI</b>	Police Service of Northern Ireland
<b>VAS</b>	Victims Advocate Scheme
<b>VCS</b>	Voluntary and Community Sector
<b>VIS</b>	Victim Information Scheme (in PBNI)
<b>VSNI</b>	Victim Support Northern Ireland
<b>WCU(s)</b>	Witness Care Unit(s)
<b>VWSG</b>	Victim and Witness Steering Group
<b>YJA</b>	Youth Justice Agency



## Chief Inspector's Foreword

The effective and appropriate treatment of victims, witnesses and their families presents enormous challenges for the criminal justice system. At a human level the experience of crime is traumatic and can change the course of a person's life forever. The process of dealing with the justice system can create anxiety and concern. The range of problems presented can be very broad and often outside the control, or indeed experience, of the criminal justice system. At the same time the delivery of justice requires that victims and witnesses and their families are given the necessary support and encouragement to make their contribution to the investigation and prosecution of individual cases, and come to terms with the impact of criminal activity.

The purpose of this inspection was to consider the treatment of victims and witnesses by the criminal justice organisations, in particular the efforts made by these organisations since the previous Criminal Justice Inspection Northern Ireland (CJI) reports in 2005 and 2008. Since the last inspection there have been many positive developments including implementation of a victim's Code of Practice, establishment of specialist units within the Police Service of Northern Ireland (PSNI), specialist facilities for vulnerable witnesses and the introduction of special measures legislation aimed at assisting vulnerable or intimidated witnesses to give their best evidence. The majority of recommendations made previously by CJI have been implemented.

It is important to note that in the Northern Ireland Victims and Witnesses Survey (NIVAWS), 71% of victims and witnesses were satisfied regarding their overall contact with the justice system. There has been a positive trend in satisfaction rates over the years and this is to be welcomed. However, at the same time many of the problems identified in previous inspections are still raised by victims and their representatives. A sizeable proportion of victims remain dissatisfied regarding their overall contact with the criminal justice system (currently 23%)<sup>1</sup>. Concerns about delays within the system, poor communications and updating on case progression, timely and effective support services and co-ordination as cases progress between agencies remain. Inspectors were told directly by victims, witnesses and their families of the challenges they faced when dealing with justice organisations. Comments like *"I felt I was only a reference number,"* *"I felt very let down by the whole system"* and *"we were treated in an appalling, dehumanising way"* continue to demonstrate the scale of the challenge facing justice organisations as they strive to meet the very diverse needs of victims and witnesses.

There is a core tension at the heart of the justice system and its interaction with victims and witnesses. The uncomfortable reality is that the goals of justice bodies do not have the needs of victims and witnesses at their centre. This arises from the fact that in an adversarial system victims cannot be 'at the heart of the system', as they have often been described. From the Police Officer who investigates a crime and prepares a file, to the evidence and public interest tests of the Public Prosecution Service (PPS), through to the effective administration of justice within the courts and the implementation of the rule of law, the needs of the victim can often appear tangential and secondary to the needs of the justice system and the requirement that justice is delivered for offenders. It was a common concern that victims felt they were on the periphery of the system.

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<sup>1</sup> Performance of the criminal justice system from a victim and witness perspective: comparison of findings from the 2008-09, 2009-10 and 2010-11 surveys, Northern Ireland Statistics and Research Agency (NISRA).



The implications of this for Northern Ireland are that the justice organisations must make extra effort to deal with the issues raised by victims and their families as they undertake their work. Improved services for victims and witnesses will not simply grow out of improvements in current approaches to service delivery and indeed may be counter to existing ways of doing business.

The inspection identified many positive developments since the previous work was undertaken in 2005. However, at an operational level the inspection identified a need for improved consistency of service within the PSNI, improved methods of communication within the PPS and better case management across the entire justice system to reduce the problems of avoidable delay. In addition, there is a need for better clarity of responsibility in relation to who is responsible for meeting the needs of victims as they progress through the justice organisations. A common issue raised was the need for improved communication and updating on progress.

At a strategic level the inspection has identified a need for improved co-ordination across the justice agencies by the Criminal Justice Board and more effective 'victim's champions' within each of the justice organisations. Improved monitoring and performance management is also critical. The inspection also identified the need for the establishment of Witness Care Units (WCUs) within the justice organisations to deal directly with many of the concerns raised, and provide a coherent basis for services to be delivered.

While the overall message of the inspection is one of improving services since previous CJI work was undertaken, this needs continued focus and effort if further and necessary improvements are to be made.

The inspection was carried out by Derek Williamson and Rachel Lindsay of CJI. Inspectors were acutely aware that victims and witnesses and family members who engaged with them were recounting the most personal and painful events. We are most grateful to those who assisted in this way. Thanks also to those within the justice organisations for their assistance with the inspection process.

**Dr Michael Maguire**

Chief Inspector of Criminal Justice in Northern Ireland  
December 2011



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## Executive Summary

The criminal justice system has a responsibility to ensure victims and witnesses feel safe, are supported and are consequently able to give evidence. Victims and witnesses also have a right to expect a straightforward and co-ordinated service from the criminal justice agencies. They are often the primary or sole witness of an offence, and they merit vigilant attention by all those involved in the criminal justice process. In addition, the needs of families of victims also have to be taken into consideration. Victims of some serious crime, and their families, are often subject to very traumatic events which change the course of their lives forever. It is important that the criminal justice system treats them sensitively and that their needs are taken into consideration in the design and delivery of justice services. Furthermore, the requirements of victims are often complex and need effective integration between not only the justice system, but other Government departments, such as health and the voluntary and community sector (VCS).

The aim of this inspection report was to ensure that effective mechanisms were in place to increase the confidence of victims and witnesses so that they would fully participate within the criminal justice system in Northern Ireland. The inspection considered the experiences of victims and witnesses, as well as inter-agency working and governance arrangements for victims and witnesses services at a strategic level. It is axiomatic that if fitting services are provided by the criminal justice system, together with links to support systems from the voluntary sector, then more people may voluntarily come forward to report crime and give evidence in court. Individuals and their families will also be able to access appropriate services at the right time.

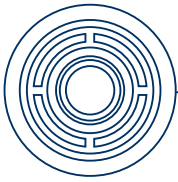
This report is the third inspection into the experiences of victims and witnesses conducted by CJI since 2005. In terms of progress, Inspectors can report that of the 37 recommendations made by CJI in its 2005 report only two (5%) remain outstanding in their totality. This is a creditable performance and represents much good work and effort on the part of the criminal justice agencies and others.

Most commentators recognise that much has been done to re-position victims and witnesses within the criminal justice system. In Northern Ireland there have been key improvements in the development of policies and procedures within organisations, and in helping to improve the front line services delivered to victims of crime and those who support the administration of justice through giving evidence. Significant funding is given to the VCS to provide additional support. The position of victims, in particular, was given important recognition in the Hillsborough Agreement of February 2010 and a new Code of Practice for victims of crime has been launched.

The treatment of victims and witnesses is a complex and difficult area for justice organisations. While much has been done over the past number of years to improve the ways in which victims and witnesses engage with the justice organisations, there remains work to be done. At present less than half (46%) of crimes are reported to the police.

Furthermore, while 71% of respondents to the NIVAWS 2010-11 were satisfied with their contact with the criminal justice system, 23% of all respondents indicated they were dissatisfied with their overall contact. The percentage of victims satisfied was 64% compared to 77% of witnesses. While the figure of 71% of respondents satisfied is above target and creditable, the corollary is that a sizeable number of victims and witnesses remain dissatisfied.





There continue to be problems therefore, in how the justice system treats victims and witnesses. It was clear to Inspectors during the course of this inspection that delivering a consistently high and co-ordinated standard of service was a difficulty for many areas across the criminal justice system. Many of the issues identified in previous inspections remain. They include the delay in taking cases through the system, the failure to provide regular information and to communicate effectively, and the requirement for single points of contact and a more seamless service as people move between agencies.

As the main organisation in contact with victims and witnesses, Inspectors felt that the PSNI focus on victims and witnesses (and on customer relations) was too often left to the determination of individuals and thus to significant variations. The findings of Inspectors provided a picture of inconsistency, both in terms of service delivery and the monitoring of that service. Inspectors considered that a change in culture with more emphasis on customer care and interpersonal skills was needed to further improve the position of victims and witnesses. Much good work is undertaken by Police Officers on a daily basis and the aim must be to ensure that this is consistent across the Service.

Building on the issue of cultural change, Inspectors have identified that additional training beyond the post-foundation stages was patchy and recommend this is considered as a wider part of embedding the kind of cultural shifts required. These findings are, unfortunately, not new and similar concerns were highlighted in the 2005 CJI report on the issue of victims and witnesses. More recently the Northern Ireland Policing Board (NIPB) omnibus survey found that 35% of respondents were dissatisfied regarding their contact with the Police<sup>2</sup>.


On the other hand, Inspectors were encouraged to hear plentiful evidence of individual Police Officers who clearly went above and beyond the call of duty to address the needs and concerns of victims. In addition, there was also good evidence of victim focused initiatives in some police district command units. However, such positive initiatives lacked central co-ordination, evaluation and control. In terms of victim contact and update, a key change programme aimed at improving customer service (the R4 Project) is being actively advanced by the PSNI. This is closely aligned to the further positive developments in terms of the 10 policing commitments published by the PSNI in April 2011. Inspectors will want to see these initiatives resulting in clear and sustained improvement of outcomes for victims and witnesses.

For the PPS there has also been some very significant positive steps taken to bring an enhanced focus to the services provided for victims and witnesses. However, once again it was apparent there were some gaps and inconsistencies in the delivery of that service. There was evidence of some good practice, but also some variation and gaps surrounding the allocation of lead responsibility and accountability for victims and witnesses between agencies. While this is not the sole responsibility of the PPS, it is at this juncture in the inter-agency working between the PSNI and the PPS that these matters become most acute. Fixing lead responsibility will mean that agencies, practitioners and ultimately victims and witnesses will benefit. Currently, this could be among the most significant barriers to improved services and therefore requires strategic decisions. For example, it was apparent that Prosecutors, in practice, relied very heavily on the PSNI to maintain contact and liaison with victims and witnesses, most especially in the more serious cases dealt with in the Crown Courts. That is not to say that such arrangements are inappropriate. Rather, it highlights the need for responsibility and accountability to be firmly fixed. Additionally, in practice, there are no established mechanisms for direct contact with victims and the PPS again rely heavily on investigating Police Officers to obtain the views of victims and, for example, to arrange consultations.

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<sup>2</sup> Public Perceptions of the Police, DPPs and the NIPB, report based on the NIPB Module of the September 2009 omnibus survey.





Inspectors heard from the PPS of work underway in a number of areas to address improvement. For example, in their programme of quality assurance, Inspectors were encouraged both by the monitoring and quality assurance being provided in respect of a range of issues, and also in the commitment to provide such a quality assurance regime. Moreover, the PPS have established dedicated Community Liaison Teams (CLTs) who provide a range of services to victims and witnesses involved in Magistrates' and Youth Court cases. This includes being a contact point for victims and witnesses who have queries concerning the overall prosecution process and the progress of their specific case. Such developments are welcome steps. However, the CLTs services are currently limited and do not operate at Crown Courts where the most serious cases are heard. In these courts the PSNI provide referrals to support agencies for victims and witnesses, and in serious cases victims and witnesses are supported by Police Family Liaison Officers (FLOs). In effect then, two business process streams are running necessarily different systems insofar as the care of victims and witnesses is concerned.

Regarding the treatment of victims and witnesses at court, there are a number of disparate elements and agencies involved at various stages in this small part of the journey through the criminal justice system. As in other areas, the responsibilities and accountability of individual agencies are not clear either to victims, nor indeed amongst the agencies themselves.

One of the most frequent and significant concerns heard by Inspectors was of delays. In common with other agencies, the Northern Ireland Courts and Tribunals Service (NICTS) has appointed Case Progression Officers (CPOs) to work with other criminal justice agency officials and the Judiciary to minimise delay in the criminal courts. CPOs provide support and work with other agency representatives to ensure that all procedural matters are effectively progressed by the parties in the case. Again, this is a welcome step forward, but the work of CPOs is impaired by other interests, such as a lack of co-operation from some defence practitioners and a lack of formalised systems.

The listing and management of cases is a judicial function and remains within the control of the Judiciary. As the Judiciary are independent, CJI has no statutory inspectorate responsibility. CJI are aware however, that there are discussions taking place between the Judiciary, the PPS and the PSNI in relation to new arrangements, which have as their aim, addressing witness availability and the listing of cases. At the time of inspection these discussions were ongoing.

It is apparent that many ordinary victims and witnesses need help when going to court, and Victim Support Northern Ireland's (VSNI) Witness Service is the principle vehicle for delivery of that service in the vast majority of cases. It remains the case however, in the Crown Court, that unless referred by investigating Police Officers, or a self-referral is made to the Witness Service, there is no structured system of referral and support such as might be the case in Magistrates' and Youth Courts in Northern Ireland or with Witness Care Units (WCUs) in England and Wales. In addition, while the NICTS have appointed Coroners Liaison Officers, such staff do not support witnesses in giving evidence at Coroners' Courts, and the VSNI Witness Service is not funded to do so. There thus is a potential gap in service provision.

Inspectors also found that there is no clear understood guidance to arrange practice into an organised system surrounding the issue of community or victim impact statements. Subject to some limitations Inspectors view the use of codified schemes in Northern Ireland as worthwhile in giving victims and communities a voice, and enhancing the role of victims throughout the criminal justice process. Inspectors also noted and welcome the inclusion of this matter in the Department of Justice (DoJ) Strategic Action Plan for the year 2011-12.



A number of Victim Information Schemes (VIS) are designed to provide victims with information post-court regarding sentences, releases and to ensure probation orders are in place. In their own right, each operates without any significant concern, but Inspectors felt that three different schemes operated by three different agencies had the capacity to cause confusion for victims and could also be operated more efficiently and effectively under one lead agency.

Despite the very good progress and the significant work either under way or planned, there remains a significant challenge to all in the criminal justice system to ensure an appropriate seamless, efficient and effective service for victims and witnesses is delivered within a framework of policies and initiatives which are co-ordinated, and deliver positive outcomes for victims and witnesses. The new Code of Practice for victims is an example of a further welcome step in this difficult journey and will help in this regard, but continual review and improvement, together with robust monitoring of the commitments within the Code must become customary if it is to realise its potential. Further, in order to help achieve consistency, co-ordination, a single point of contact and an overall improved experience for victims and witnesses, Inspectors have recommended the establishment of WCUs in Northern Ireland.

Inspectors also concluded there is a need for an overall tangible cultural shift from 'system' to 'service' and to greater customer care, understanding and interpersonal skills across the criminal justice system. The danger of professionals becoming process driven and de-sensitised to the needs of victims and witnesses must be avoided. This matter, and the other recommendations made in this report, should help to bring the needs and concerns of victims and witnesses closer to the centre of all actions undertaken within the criminal justice system; from strategy and policy through to front line service delivery.



# Recommendations

## Strategic recommendations

In terms of delay Inspectors point to the recommendations made in their report 'Avoidable Delay' (published June 2010) and repeat those recommendations insofar as they remain vital to improving the experiences of victims and witnesses. (Paragraph 4.37)

Inspectors recommend that case management is placed on a statutory footing with timescales, sanctions and incentives designed to deliver the most efficient and effective case progression. The DoJ should ensure the issue is included in their strategic action plans and progressed by 31 May 2012. (Paragraph 4.41)

Inspectors recommend that the current VWSG should be re-constituted and incorporate amongst its membership senior executives from each of the main criminal justice system agencies. These senior executives as core members should also be appointed as the individual agencies 'victim's champions'. Importantly, the VWSG should report directly to the Minister and the Criminal Justice Delivery Group on issues concerning victim and witness care and treatment, while at the same time keeping the Criminal Justice Board advised of its work. Victim's champions should be responsible to and directly report to the heads of each of the main justice agencies (PSNI/PPS/NICTS/PBNI) on matters including:

- organisational performance in respect of the care and treatment of victims and witnesses;
- the implementation (operational delivery) of policy/commitments and the Victim's Code;
- active liaison across the criminal justice system with other partners;
- engagement with victims/victims groups and application of the learning from this; and
- representing the views of victims. (Paragraph 6.20)

Inspectors recommend the reconstituted VWSG oversee the establishment of WCUs in Northern Ireland but led by the PPS and using the existing CLTs as the core basis for delivery. Inspectors consider that an amalgam of PPS CLTs, elements of the PSNI R4 model (in terms of victim contact and updating), NICTS CPOs and VSNI can provide a vehicle to achieve a WCU ('one stop shop') facility which will significantly enhance the experience of victims and witnesses. (Paragraph 6.52)

Inspectors recommend the amalgamation of *all* post-conviction VIS under the supervision of the PBNI. (Paragraph 5.65)

In order to address the needs of victims who:

- do not engage the criminal justice system;
- have difficulty accessing criminal justice services;
- need help beyond the period when the criminal justice process has ended; or
- who need specialist assistance for reasons of vulnerability;

the DoJ should further develop advocacy services. (Paragraph 5.13)



## Operational recommendations

Inspectors recommend that victims letters should be revised by the PSNI to take account of the matters raised in this report at paragraphs 2.29 and 2.30. *(Paragraph 2.30)*

On the matter of post-foundation training, Inspectors would recommend the PSNI examine how they can deliver appropriate victim focused refresher training to Officers who are routinely engaged in public response (whether by way of call management or physical response) at key stages. *(Paragraph 2.47)*

Inspectors recommend that the PPS review of letters take account of the findings and comments at paragraph 3.12 and paragraphs 3.14 - 3.18. *(Paragraph 3.14)*

It is [therefore] recommended that the CLTs become a WCU and that the role is extended to the Crown Courts. *(Paragraph 3.25)* NB\* This recommendation is linked to the recommendation regarding the establishment of WCUs (see paragraph 6.52)

Inspectors recommend that the PPS incorporate dedicated training on the care and treatment of victims and witnesses as part of its system of continuous professional development. *(Paragraph 3.31)*


The Criminal Justice Board should implement technical solutions across the criminal justice system to update victims and witnesses about developments in their case including whether they need to attend court, the date, time and venue where the offence will be listed, and the eventual outcome of the hearing. This should be regarded as a 'self-service' facility in which victims and witnesses, using a unique reference can access information about their case from soon after first report until its disposal. Such a service should also signpost support services, where appropriate. *(Paragraph 3.40)*

The DoJ should consider how it can measure the costs and issues arising in 'cracked' and 'ineffective' trials highlighting where costs can be saved and outcomes for victims and witnesses improved. *(Paragraph 4.36)*

Systems must be agreed and put in place (supported by the PSNI, the PPS and the NICTS) to support operational Police Officers and ultimately victims in providing timely and accurate information with regard to bail, starting with the most serious cases. However, in view of the Law Commissions expected report Inspectors make this a conditional recommendation. *(Paragraph 4.60)*

Inspectors recommend that the Criminal Justice Board introduce guidance on a victim impact scheme in Northern Ireland and that the lessons learned from implementation of the victim personal statement in England and Wales are considered in doing so. Once agreed, the guidance should be available to the public. *(Paragraph 4.77)*

Inspectors recommend that the DoJ works with the NICTS and VSNI to develop a clear system of voluntary referrals and thus support for victims/victims families and other witnesses who attend Coroners' Courts. *(Paragraph 5.9)*



Inspectors recommend that the broad demarcations of lead responsibility for victim and witness care in the criminal justice system are firmly established and followed as below:

- report to decision to prosecute – PSNI; and
- decision to prosecute to disposal – PPS. (Paragraph 6.36)

In respect of the gap between policy and practice Inspectors consider that individual agency victim's champion's (when appointed) should examine their own regimes in terms of:

- a focus on outcomes for victims and witnesses;
- the importance and priority given to victims and witnesses issues;
- the performance indicators which underpin points one and two above;
- the quality assurance mechanisms in place to support monitoring/measurement; and
- supervision monitoring of the care and treatment of victims and witnesses which supports the fourth point above. (Paragraph 6.42) NB\* This is an operational matter linked to the recommendations made at paragraph 6.20.

## Areas for improvement

Police call management units and staff who are responsible for the dispatch of Officers to calls should consider appropriate system checks to ensure responding Officers are aware of previous reports/incidents, as well as the potential presence of firearms at the address. (Paragraph 2.12)

Inspectors recommend that together with VSNI and the NSPCC, the PSNI and the PPS re-visit referrals to the witness schemes to ensure that gaps can be narrowed and that the service to victims is as seamless as possible. (Paragraph 2.22)

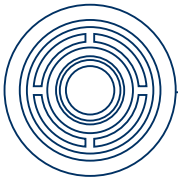
Inspectors recommend the PSNI reminds all Officers of the need to ensure appropriate advice is provided to all witnesses regarding the provision of a formal written statement. (Paragraph 2.33)

Inspectors recommend the PSNI ensures maximum use is made of initial needs assessments as part of victim and witness care. (Paragraph 2.36)

Inspectors recommend the PSNI ensures that cultures embedded in the Police College and in student officers are transferred from the training environment to the front line and maintained over time. This can be achieved by:

- supervision by experienced Officers at Sergeant rank and above;
- the maintenance of a culture of customer care/customer focus and interpersonal skills;
- delivery of mechanisms which assist the process of victim and witness care and further embed the culture of customer focus; and
- delivery of further training to front line Officers at key points in their service [as recommended at paragraph 2.47]. (Paragraph 2.48)

Inspectors would recommend that there is a central oversight and evaluation by the PSNI Criminal Justice Directorate of policing initiatives and, where appropriate, corporate application of the learning. This could take the form of a good practice website where others could learn from the positive and negative aspects of such schemes. (Paragraph 2.54)



Prosecuting Counsel are not AccessNI checked. This is a matter which Inspectors recommend should be addressed by the PPS in employing Counsel for sensitive cases and those involving children. *(Paragraph 3.32)*

Specifically for the NICTS, Inspectors recommend that the various responsibilities and how they will be delivered should be added to its victims and witnesses policy in its next revision. *(Paragraph 4.7)*

Inspectors recommend that all PSNI Officers likely to be engaged in dealing directly with crime victims are given awareness training in the application of special measures. *(Paragraph 4.64)*

Inspectors recommend that the PSNI and the PPS work together to provide a clear and auditable system of information to support the best possible care and treatment of victims and witnesses. Specifically, this should entail clear tracking of victim and witness needs via the Causeway interface and be fully visible to all relevant agencies. This could include matters such as vulnerabilities; special needs; fears or concerns; special measures; the 'victim contract'; and updates (as discussed in Chapter 2); and links to witness assessments and WCUs. *(Paragraph 4.65)*

Inspectors would urge that the NICTS conduct a review of the holding and availability of [such] technical equipment across its estate with a view to achieving a balanced approach bearing in mind financial restrictions and the needs of stakeholders, including victims and witnesses. *(Paragraph 4.66)*

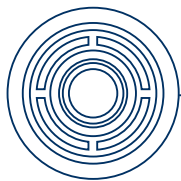
Inspectors would encourage the PPS to quality assure practice with regard to communication with victims surrounding appeals during the following six months. *(Paragraph 4.70)*

**Section**



# **Inspection Report**





## CHAPTER 1:



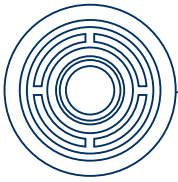
# The issues to be addressed

### Introduction

- 1.1 The effective and appropriate treatment of victims, witnesses and their families presents enormous challenges to the criminal justice system. At a human level, victims of serious crimes have often been through a traumatic event which can change the course of their lives forever. The event can cause psychological trauma, financial problems and difficulties with even the simplest aspects of daily life. For many victims the process of engaging with the criminal justice system itself can create anxiety and concern, particularly for those who have had no previous contact with criminal justice organisations. The range of problems presented can be very broad and often outside the control, or indeed experience of, individual justice organisations.
- 1.2 The delivery of justice also requires that victims and witnesses (and often their families) are given the necessary support and encouragement to make their contribution to the investigation and prosecution of individual cases. It is axiomatic that if fitting services are provided by the criminal justice system, together with links to support systems from other statutory service providers and the voluntary sector, then more people may voluntarily come forward to report crime and give evidence in court. This can only be to the benefit of the delivery of justice overall.
- 1.3 At the same time, and despite many policies, practices and initiatives dealing with victims

and witnesses, the goals of the justice organisations do not have - at their core - the effective treatment of victims and witnesses. The purpose of the Police Service, for example, is to protect life and property, preserve order, prevent the commission of crime and bring offenders to justice. The role of the PPS is to make decisions to prosecute, or not to prosecute, in the public interest. Its role is to represent the public interest not the victim in the prosecution of cases. The NICTS provides effective administration to the courts system while the Judiciary interpret and apply the rule of law. This is not to imply that the justice system does not have a real desire to meet the needs of victims, nor policies which are aimed at this need. Rather, it is simply a statement of fact on the purpose of the justice system overall. In the adversarial and common law system that exists in the UK putting the victim at the heart of the justice system, has become common vernacular in various attempts to re-position victims, and can only serve to raise expectations unnecessarily.

- 1.4 This can mean that victims and witnesses feel on the periphery of the justice system and that they can, to some extent, be excluded from the administration of justice. It can help explain why victims often feel the system spends more time thinking about the needs of the defendant than those who have been the victims of crime. The feeling of isolation of victims from the administration of justice is illustrated in the CJI report into the handling of the sexual abuse cases involving the McDermott



brothers in Donagh (published in November 2010). The inspection noted that even though the justice organisations performed well in dealing with these cases, victims felt on the margins of the system.

- 1.5 Therefore there is, at the heart of the discussion, a core tension which needs to be recognised and acknowledged. This means that justice organisations must make extra effort to deal with victims and witnesses as they progress through the justice system.

### The experience of victims and witnesses

- 1.6 One of the main issues raised by victims and witnesses is the length of time it takes for a case to come to a disposal by a court. Continued adjournments and lengthy case preparation and administration can add to the anxiety and potential trauma of those who have been victims. One murder victim's wife commented for example, "*It [delay] just made life so much more unbearable for us.*" As other work by CJI has shown<sup>3</sup> Northern Ireland has a considerably longer length of time to bring a case to a disposal by a court compared with other jurisdictions. Reducing the length of time it takes from arrest through to disposal would have a major positive impact on the experience of those who engage with the justice system.
- 1.7 However, victims were particularly focused on a 'joined-up' service (single point of contact) between the agencies that would give them clarity and continuity of treatment. One victim of domestic violence stated, "*It would be good if you had a named person you could speak to who knew about your case, so that you didn't have to go over the same thing again and again.*" Similar sentiments were repeated by a number of victims. It is that joined-up or end-to-end process which is the benchmark for this inspection.

- 1.8 Part of the difficulty that both statutory and voluntary agencies have in developing a comprehensive assessment of victim and witness needs, is mainly due to the diverse nature of crime, the individuality of victims and the uniqueness of the impact on them, their family and friends. However research has found that victims of crime experience a variety of emotions and feelings including:


- fear for their personal and loved ones security and wellbeing;
- fear of 'the system' and, for a variety of reasons, reluctance to engage;
- shock and disbelief at what has happened to them;
- anger towards others including the criminal justice system;
- private space and life has been violated; and
- resentment towards the perpetrator.

- 1.9 Time and again Inspectors heard concerns which could be encapsulated alongside, and echoed in those highlighted by the then Victims' Commissioner Louise Casey's, July 2010 and November 2010 reports. Arising from fieldwork and reviews of other material, Inspectors accordingly assessed the main and broad areas of victim needs as follows:

- a single point of contact and access to regular information and updates;
- speedy case progression (issues regarding delay);
- access to specialist support services;
- respect and proper consideration of individual needs;
- consistency of service; and
- to have equal rights and status, as others in the system.

- 1.10 The reality is that most victims and witnesses have little real understanding of the criminal justice system. Their perceptions are more likely to be based on their own limited contacts with the criminal

<sup>3</sup> Avoidable Delay incorporating an inspection of the interface between the Police Service of Northern Ireland and the Public Prosecution Service for Northern Ireland, June 2010, CJI.



justice system and anecdotes (usually negative) of others, the media or of fictional television programmes, rather than formal information provision from the statutory agencies. This is in spite of the agencies and voluntary bodies investing heavily in promotional material, conferences, outreach programmes and increasingly, on providing detailed information on their websites.

1.11 Our system of justice ensures that once an offence has been reported to the Police and referred to the Prosecution Service, decision-making and pursuit of a prosecution is taken out of the hands of the victim and placed, in the public interest, in the hands of independent Prosecutors. The matter then becomes an issue solely between the State and the defendant, and the system has developed to primarily take account of the processes involved in bringing defendants to justice. The victims (and witnesses) may thus be considered to have a secondary status. These principles however, do serve a useful purpose. It is designed to relieve the victim (and his or her family and friends) of the burden of righting the wrong by pursuing justice on their own account. It means that justice may be administered in a fair and proportionate way; in accordance with agreed standards of proof and principles of sentencing. It minimises the scope for over-zealousness, vigilantism and the possibility of personal vendettas.

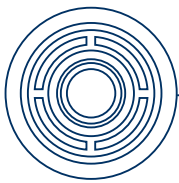
1.12 While there have been major policy shifts aimed at re-positioning victims and witnesses within the UK criminal justice system, in the last number of years it is clear that there are significant numbers of victims whose experience in the system continues to contradict and resist developments and expectations. Evidence of this dichotomy is provided at paragraph 1.20. The Victims' Commissioner for England and Wales, Louise Casey, in her July 2010 report has stated that *'Despite all the changes in the system, and in spite of the range of initiatives, the raft of codes, charters, guidance notes and performance targets, it is*

*simply wrong to say that victims are at the heart of the justice system. They are not.'* While the work of Ms Casey refers specifically to England and Wales, it was nonetheless clear to Inspectors that the same issues arise in the context of the Northern Ireland criminal justice landscape. This is not to say that any criminal justice agency is in any way culpable for the positioning of victims and witnesses within the criminal justice system. Rather, it again points to the difficulties faced by them in dealing with victims and witnesses. Despite this, the challenge for all in the criminal justice system is to ensure that the adversarial and common law basis of our system of justice ensures, insofar as possible, that the victims voice is not just heard, but listened to and acted upon. Further, that policy and practice reflects real sensitivity to the individual voice, needs, concerns, fears and expectations of those victims.

1.13 More recent critical and influential examples of the need to do more come from victim's campaigners, Sara Payne and Louise Casey, in their separate reports and critique of victims in the criminal justice system. Each has found system failures and gaps in policy, practice and procedures. Most telling of all, Louise Casey reported in her initial assessment (published 20 July 2010) that *'At virtually every step through the tangled processes of the criminal justice system, victims and witnesses remain a side-show compared to the 'interests of justice' – which largely means the processing of offenders through the system.'* Once again, it is acknowledged by Inspectors that the work of Ms Casey and Ms Payne is relevant only to England and Wales. Nonetheless, Inspectors heard many similar sentiments expressed in the Northern Ireland context.

## **The views of victims and witnesses**

1.14 The starting point for any overview of the setting of victims and witnesses must be in respect of the volumes and prevalence rates for crime (victimisation). Secondly, in terms



of confidence levels, and finally, in regard to satisfaction with treatment by the criminal justice system.

1.15 In terms of volume and prevalence, the following is the backdrop:

- findings from the Northern Ireland Crime Survey (NICS) 2008-09 reveal that 13.4% of all households and their adult occupants were victims of at least one crime during the 12 months prior to interview, compared with 23.4% in England and Wales (British Crime Survey (BCS) 2008-09);
- there were just over 105,000 crimes recorded by the PSNI in 2010-11 (down 3.8% from 2009-10). The numbers of violent<sup>4</sup> crimes in the same period were in excess of 32,000 (down 0.7%);
- under half (46%) of the crimes measured by the 2008-09 NICS that are comparable with recorded crime categories, were reported to the Police. This compares with 41% measured by the 2008-09 BCS in England and Wales;
- the police record 'incidents' and 'recorded hate crimes' separately. The PSNI figures for hate incidents during 2009-10 indicate the number of sectarian incidents increased by 245 (+15.4%), racist by 48 (+4.8%), disability by 14 (+31.8%) and transphobic by four (+40.0%). By contrast, during the same period, faith/religion incidents decreased by 23 (-50.0%) and homophobic incidents fell by four (-2.2%); and
- insofar as recorded crime is concerned, PSNI figures indicate that between 2008-09 and 2009-10 the number of crimes with a sectarian motivation increased by 247 (+24.3%), disability motivated crimes increased by 13 (+46.4%) and transphobic motivated crimes increased by two (+100.0%). Conversely, the number of crimes with a racist motivation fell by 59 (-7.7%), homophobic crimes fell by 22 (-16.4%)

and faith/religion crimes fell by 20 (-57.1%).<sup>5</sup>

1.16 In contrast to the position of some victims (who may also become witnesses), witnesses themselves have a central and vital role in the justice system. Generally speaking, without witnesses there can be no prosecution. This is evidenced in England and Wales by the national strategy 'No Witness, No Justice' which seems to encapsulate this idea. The prosecution's dependence on non-expert witnesses has declined, as the contribution of expert and forensic evidence has increased, and this trend was particularly marked in Northern Ireland due to the prevailing security situation, fear of intimidation and the reluctance of many witnesses to provide evidence in an open court. Nonetheless, eye-witnesses are still essential to the prosecution in a very substantial proportion of cases. While official statistics on the numbers of witnesses are not kept, PSNI estimate that their volunteers see some 7,000 witnesses per annum in both the Crown and Magistrates' Courts. Other data (which has yet to be validated) made available to Inspectors suggests that in excess of 10,000 witness Requirement to Attend notices are issued per annum. This is likely to be a very conservative estimate of the overall number of witnesses who are called to court in Northern Ireland.

1.17 Confidence in the criminal justice system can be among the key factors for members of the public in deciding whether to report a crime. In the findings from the NICS 2007-08: Confidence in policing and the criminal justice system, it was reported that '*...confidence in the criminal justice system rose by a statistically significant five percentage points, from 39% in NICS 2003-04 to 44% in NICS 2007-08, two points above target (42%). Based on the 2007-08 British Crime Survey the equivalent for England and Wales is also 44%.*'

<sup>4</sup> Violent crime includes; offences against the person, sexual offences and robbery.

<sup>5</sup> PSNI Annual Statistical Report; Report No. 3 Hate Incidents and Crimes 1 April 2009 – 31 March 2010.





1.18 In addition, of those respondents in the 2010-11 NIVAWS who ultimately gave evidence in court, 51% reported that, if asked, they would be likely to agree to be a witness again. A further 25% indicated they would be unlikely to agree to this, while the remaining 24% reported that it would depend on the circumstances of the case.

1.19 As we said earlier and repeat again, it must be regarded as self-evident that if fitting services are provided to victims and witnesses by the criminal justice agencies together with links to support systems from the voluntary sector, then more people may:

- voluntarily come forward to report crime; and/or
- give evidence in court.

Both of these outcomes will ultimately help to protect society and reduce crime and victimhood.

1.20 However, it was apparent across a range of measures that between one third and one fifth of respondents remain dissatisfied with their experiences in the criminal justice system. The contrast is that larger proportions of respondents believe they have been well treated by criminal justice system staff. It is also interesting to note that the general trend in satisfaction rates across the various surveys is in a positive direction with small increases year on year, and that is to be welcomed as an encouraging indicator of the positive work of the criminal justice agencies in this area. The following table provides a summary of the NIVAWS overall findings.

Question	2008-09	2009-10	2010-11
In general, were you satisfied or dissatisfied about the information you were given about the criminal justice system process?	Satisfied: 65% Dissatisfied: 31%	Satisfied: 66% Dissatisfied: 29%	Satisfied: 68% Dissatisfied: 25%
Thinking about from when you first reported this incident to now, are you satisfied or dissatisfied with how well you have been kept informed of the progress of your case?	Satisfied: 54% Dissatisfied: 41%	Satisfied: 54% Dissatisfied: 41%	Satisfied: 57% Dissatisfied: 35%
Overall, were you satisfied or dissatisfied, with the way you were treated by staff in the criminal justice system?	Satisfied: 79% Dissatisfied: 16%	Satisfied: 82% Dissatisfied: 12%	Satisfied: 84% Dissatisfied: 12%
Overall, were you satisfied or dissatisfied with the contact you have had with the criminal justice system?	Satisfied: 65% Dissatisfied: 30%	Satisfied: 68% Dissatisfied: 27%	Satisfied: 71% Dissatisfied: 23%



While there are many examples of positive experiences for victims as reflected above, further exemplars illustrating dissatisfaction include:

- 32% of respondents reported that they had not been kept informed when asked who in the criminal justice system had kept them informed about progress;<sup>6</sup>
- where a no prosecution or diversionary decision had been made, 59.1% of victims were satisfied with the information and services provided to them by the PPS while 34.4% indicated they were dissatisfied. The remaining 6.5% were neither satisfied or dissatisfied or did not know;<sup>7</sup>
- 22% of survey respondents expressed overall dissatisfaction with their experience at court in 2010-11<sup>8</sup>; and
- reported satisfaction levels during contact with the Police were 65% satisfied and 35% dissatisfied.<sup>9</sup>

1.21 Arising from their contact with victims and witnesses, Inspectors heard of many positive experiences and of good work and constructive initiatives on the part of all justice agencies. However, the feelings of still noteworthy proportions of victims and witnesses, that they did not receive an overall affirmative service and experience, were apparent. Many victims view the justice system through a different lens than justice professionals, and their feelings and the perceptions they hold of how they have been treated and how the system works, are vitally important to consider if further improvements are to be made. Among many such disapproving comments heard by Inspectors were the following examples:

- *"The police didn't seem to treat the incident as serious..."*
- *"They [police] did not take me serious and didn't realise how scared I was."*
- A victim of domestic violence commented, *"No-one ever seemed interested and kept telling me to go to a solicitor which I cannot afford as a working single mother; he received all legal representation free of charge on legal aid. My assailant continued to threaten and abuse me, I did not contact the police because I felt they didn't care."*
- One victim told Inspectors, *"There was no contact after initial report - feel very let down."*
- *"I felt that I wasn't kept up-to-date enough regarding what was happening in my case. I had to constantly ring them to find out what was happening to the perpetrator."*
- Another victim commented, *"I felt I was treated well, but I think that information about what was happening should be more forthcoming and I feel that I had to do a lot of ringing just to find out what was happening."*
- A victim of domestic violence commented, *"I feel really let down by the Police and the Prosecution Service."*
- *"I received a letter from the PPS which was extremely cold and impersonal. The letter went through things point by point as to why there would be no prosecution, but I felt that I was not believed. The letter was hurtful, cold and clinical. I feel they still haven't explained fully. I was not told I could appeal and only heard through the [named] case."*

6 Performance of the criminal justice system from a victim and witness perspective: detailed breakdown of findings from the 2009-10 survey, NISRA.

7 Performance of the criminal justice system from a victim and witness perspective: comparison of findings from the 2008-09, 2009-10 and 2010-11 surveys, NISRA.

8 Ibid.

9 Public Perceptions of the Police, DPP's and the NIPB, report based on the NIPB Module of the September 2010 omnibus survey.





- The family of a murder victim commented, "We never met with the DPP of the PPS until the trial - we were very uninformed until that stage."
- One victim wrote, "[I] was extremely upset and annoyed... no consultations or explanations. Would prefer this info to come from PPS Director, decision-maker, not police or media. No-one is in court to represent [the] victim. The PPS only interested in case file."
- The victim of a kidnapping told Inspectors, "I work in a court environment and see first hand, and have felt as a victim that more emphasis is put on the defendants rights and circumstances than the victims. Victims and their families have no voice in criminal proceedings."
- A murder victims family observed, "I don't have much faith in the PPS, I feel they could do a better job."
- Another victim commented, "The PPS seemed ill-prepared for the court case."
- One victim commented, "On the day of the court I felt like the criminal not the victim..."
- The family of a murder victim wrote, "[Named court] is a terrible court house, far to small. We were asked to move several times in the court room in case we swayed the jury, when wanting to have a break we would be standing next to his family... no murder trial should go ahead in victims home town or in such a small court room."
- A victim in a sexual abuse case told Inspectors, "I found it worrying that [the] defendant was in our vicinity upon arrival and there was no actual contact point - i.e. a desk/reception on the upstairs part of court for information or help - we just waited until someone found us. Walked past defendant to get to toilet and cafe."

- A victim of a series of incidents of vandalism/criminal damage commented, "I felt like a suspect not a victim. Will probably not bother reporting a crime again. It is so not worth it."
- A victim of sexual abuse observed, "I felt that I was only a reference number and that their heads are elsewhere with all the troubles related incidents and victims. I feel I was stuffed about left right and centre. I told my whole family about the abuse and now I feel it was not worth it. Now my mum feels guilty allowing this to happen to me."
- A victim of domestic violence stated, "I have been dealt with unfairly by the criminal justice system, to the point where I have actually been re-victimised. As a result of this, my confidence in the justice system has been eroded. Indeed, if I had known at the beginning of this process what I know now I would never have engaged with the system."
- A victim of a sexual assault told Inspectors, "The process made me think twice about being a witness again. The stress and hassle didn't match the sentence given."
- Another murder victims family commented, "To be perfectly honest, the criminal justice system in this country only protects offenders - and never takes victims feelings and destruction of their lives into consideration."
- A victim of sexual abuse stated, "Felt very let down by the whole system."
- Another victim stated simply, "The Police have been very supportive but I feel disappointed in the justice system."
- Another victim told Inspectors, "We were treated in an appalling, dehumanising way... The whole process is clearly centred on the needs of the criminal... We have utterly lost faith in the criminal justice system."



- The father of a murder victim told Inspectors of his feelings regarding a series of issues which left him with a clear belief of being “disrespected”. These included what he saw as:
  - a lack of “genuine” communication regarding the process of investigation;
  - a lack of updates about court appearances;
  - the behaviour of Prison staff in court towards the accused (laughing and joking and one Officer falling asleep) all of which added to the feeling of being “disrespected”; and
  - a feeling of uncertainty regarding possible prosecutions and trial dates which meant that he and his family could not book any holidays for a number of years.

Inspectors acknowledge that for many victims their perceptions regarding treatment by the criminal justice system agencies can be coloured by the judicial decision in their case, and indeed such matters as the length of sentence. However, whatever the facts or circumstances of each of these individuals, or of each individual case and whatever the explanations might be, these examples illustrate the strongly held views of sizeable numbers of victims and witnesses. They also clearly illustrate the challenges facing the criminal justice agencies.

## Children and young people

- 1.22 In referring to witnesses in the broad sense, this has generally included both young witnesses and those adult witnesses who come into contact with the criminal justice system. However, Inspectors would wish to

make clear that there is a distinction in a number of areas in respect of young witnesses, and the special position of children is recognised in a number of statutes, in human rights principles and also in this report. Inspectors were pleased to find a broadly appropriate recognition of the special position of children and young people in their contact with the various criminal justice agencies inspected. Inspectors also found that the core needs of children and young people as victims and witnesses are, for the most part, similar to those of other victims and witnesses. At the strategic and policy levels, justice agencies and their partners appear to be well versed in ensuring that children and young people are recognised and services provided. This is apparent especially in the provision of, for example, special measures and bespoke services such as the National Society for the Prevention of Cruelty to Children (NSPCC) Young Witness Service, both described post. However, it is also clear that the issue of delay continues to cause concern and this can be especially acute for children and young people. The work of Plotnikoff and Woolfson (2004)<sup>10</sup> and (2009)<sup>11</sup> highlights, for example, the impact of anxieties for children and young people in giving evidence. Further, concerns are raised regarding the waiting times for children and young people while at court. These issues and some concerns for children and young people in individual cases continue to require the vigilant attention of justice agencies. Inspectors will commence a report on the use of special measures in Northern Ireland’s criminal justice system in late 2011, and specific aspects of the experience of children and young people as witnesses will be dealt with in that inspection report.

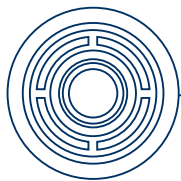
10 In their own words: the experiences of 50 young witnesses in criminal proceedings, the NSPCC in partnership with Victim Support, Plotnikoff J and Woolfson R, December 2004, [http://www.nspcc.org.uk/Inform/publications/downloads/intheirownwords\\_wdf48193.pdf](http://www.nspcc.org.uk/Inform/publications/downloads/intheirownwords_wdf48193.pdf).

11 Measuring Up? Evaluating and implementation of Government commitments to young witnesses in criminal proceedings, Plotnikoff J and Woolfson R, July 2009 [www.nspcc.org.uk/Inform/publications](http://www.nspcc.org.uk/Inform/publications)



## Overview of inspection

- 1.23 In January 2005 CJI commenced a cross-cutting thematic inspection into the 'Provision of Care for Victims and Witnesses within the Criminal Justice System in Northern Ireland'. The aim of the inspection was to ensure that effective mechanisms were in place to increase the confidence of victims and witnesses so that they would fully participate within the criminal justice system in Northern Ireland.
- 1.24 Based on the inspection findings at that time, a report was published in July 2005 which made a total of 37 recommendations. A follow-up review to assess progress with the implementation of these recommendations was conducted in February 2008. In terms of strategic oversight, that follow-up review found: *'The July 2005 report made a total of 37 recommendations. Based on the evidence submitted, interviews with key stakeholders and other research Inspectors have established that 25 (67.5%) of the recommendations have been achieved. The remaining 12 have not yet been satisfactorily achieved.'*
- 1.25 This further inspection formed part of CJI's 2010-11 inspection programme. In addition to other matters, it deals with the 12 recommendations highlighted in the February 2008 follow-up review as not yet satisfactorily achieved. Of the 37 recommendations made, Inspectors now assess that two remain outstanding in their totality, while the remainder have been achieved in whole or in part. The two outstanding recommendations refer to what became known as the 'one stop shop' initiative and the second to the development of IT solutions to victim updates. This is a very creditable performance and represents significant work and progress on the part of the criminal justice agencies and others.
- 1.26 This inspection and review has been guided also by its Terms of Reference (see Appendix 1). The main fieldwork for the inspection was undertaken during September, October and November 2010 and was designed to determine and assess the mechanisms, policies and practices in place for the care and treatment of victims and witnesses within the criminal justice system in Northern Ireland. This was achieved by means of a cross-cutting inspection covering criminal justice agencies and non-statutory organisations primarily involved. The detailed methodology used for the inspection is set out at Appendix 2.
- 1.27 This report continues by describing the 'victim pathway' or the journey of a victim/witness through the criminal justice process from initial report, investigation, prosecution, and court. Finally, inter-agency working and governance arrangements for victims and witnesses services at strategic level are considered. As is common with all CJI inspections, the report also reflects, at relevant points, on the success of the criminal justice agencies in meeting the needs of victims and witnesses.
- 1.28 Inspectors would also point out that readers should not treat individual chapters as an exclusive commentary on the main agency being referred to within the criminal justice system. There are many examples of areas which, while considered the lead responsibility of one agency, given the focus on the victim journey, may be referred to in other chapters.



## CHAPTER 2:

# Reporting, investigation and referral



### Introduction

2.1 It is the role of the PSNI to record and investigate reports of crime. These duties in particular will involve the identification of witnesses and the preservation of evidence. Primarily however, in the context of the care and treatment of victims and witnesses, this manifests itself in a number of distinct areas:

- contact management (first report);
- initial policing response; and
- investigation and updates.

2.2 Before considering these areas of practice, it may be helpful to consider and understand, amongst other matters, the PSNI policy in this area.

### PSNI structures and policy

2.3 In October 2003 the PSNI established a Criminal Justice Department under the command of an Assistant Chief Constable (ACC) to focus on criminal justice issues. The ACC of Criminal Justice represents the PSNI on the Criminal Justice Board and is designated as the 'victim's champion' for the Board. The Criminal Justice Department has a wide remit, which includes corporate responsibility for victim and witness policy and initiatives.

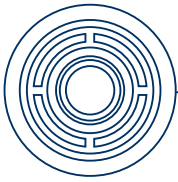
2.4 The current PSNI policy 'Dealing with Victims and Witnesses' (2005-06) was issued in May 2006 and was due for review in May 2010. At the time of writing, this review had not been initiated but commencement was

planned. The key PSNI policy landmarks are:

- victims should be given a business card with the name of the Investigating Officer inserted;
- all details of victim contacts are recorded in the police computer system (NICHE);
- victims are advised to contact the Investigating Officer if they need further information/updates. If Officers are not on duty, calls should be directed to the Occurrence Case Management Team (OCMT) which operates 9:00am – 5:00pm Monday to Friday;
- victims should be informed of the services provided by VSNI, subject to 'opt-out';
- letters are forwarded by the OCMT as follows:
  - initial letter in all cases, unless a victim has specifically requested no contact. The letter provides the name of the Investigating Officer, the crime reference number and details of other support services;
  - after a period of three months, if no-one has been made amenable; and
- further updates are at the discretion of the Investigating Officer and guidance is given, in general, that this should be at key stages such as arrest, charge, bail, file passed to the PPS, change of Investigating Officer etc.

2.5 Inspectors noted that the implementation of the policy, in terms of staff awareness and





final implementation, was devolved to the eight geographical District Commanders. Consequently, Inspectors met with a sample of these Commanders to determine, amongst other matters, the extent of implementation, awareness and training among district unit staff. It was clear that training was delivered on a variable basis, with no specific focus from central command on the issue of victim and witness care, for example, in the topics provided for district training. It is recognised however, that in some cases Officers awareness is raised via presentations from various victims groups such as Women's Aid, VSNI and so on.

- 2.6 The extent to which District Commanders, in practice, monitor compliance with policy is limited with no specific key performance indicators either locally in policing plans, or in the PSNI and Policing Board targets. District Commanders tended to rely, by default, on their OCMT Managers (or other nominee) to ensure compliance without any structured systems. In both these areas, Inspectors felt that the focus on victims and witnesses, and on customer relations, was left to the determination of individuals and thus to variation. This is despite some very good evidence of a focus, in some areas, on positive service delivery. The picture however, is one of inconsistency both in terms of service delivery (as measured in feedback from victims) and monitoring of service (as measured in Inspectors interviews with a range of PSNI personnel).
- 2.7 Inspectors found during their fieldwork that PSNI districts did have a system of recording victim updates, by way of letter and contact from Investigating Officers. However, this was patchy and did not allow for regular management or performance data for teams or individuals. In other words, the PSNI has no systematic way of measuring compliance with its policies regarding victims and witnesses. While some monitoring was apparent at strategic level in terms of satisfaction surveys, and at local level in

terms of supervision, these were not strategically monitored or controlled, nor were local arrangements supported by systems. These may be regarded as significant barriers to good performance and victim satisfaction with the response of the PSNI. While the specific findings are explored in more depth at paragraph 2.32, Inspectors would encourage the PSNI to consider how the needs of victims regarding updates and the performance of individual Officers can be linked and made available as management data.

- 2.8 The PSNI policy 'Dealing with Victims and Witnesses' is curiously silent on where callers should be directed if an Investigating Officer is not available and the OCMT is not operational (i.e. outside of office hours). It is also noted that the policy states *'from the date on which a charged person appears at court, or in report cases when the file has been forwarded to the PPS, responsibility for updating victims on the progress of the file will lie with the PPS.'* While this is in keeping with the Criminal Justice Review recommendation, it is at odds with actual practice. This highlights confusion amongst criminal justice system professionals, not least victims and witnesses, as to who is responsible for dealing with victims at various stages of the criminal justice process. For example, in serious crime cases the practice is for police FLO's to keep victims up-to-date. Similarly, in the more serious cases (usually Crown Court matters) police are routinely charged with the responsibility of managing victims and witnesses, both in terms of updating and the management of their attendance at court, albeit that the PPS issue witness notifications by post in approximately 80% of cases. In addition, in the case of bail issues it is police who, in practice, keep victims informed and the application of this practice is, in common with other aspects, patchy and dependant simply upon the attentiveness of individual Officers. Inspectors consider this as a significant issue and a barrier to improved performance across the criminal justice system. The

matter is discussed further in Chapter 6 and a key recommendation made at paragraph 6.36.

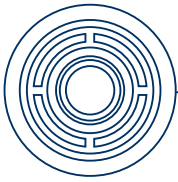
## Contact management (first report)

- 2.9 The first contact with police is usually via telephone, but victims and witnesses may also report incidents directly in person, to the police. The PSNI homepage of its website offers information on the non-emergency number, together with the ability to report 'hate crimes'. At the time of inspection this was the only category of crime which could be reported online. However, Inspectors now understand that the reporting of all non-emergency crimes will be able to be reported 'online' from 18 July 2011. This is a very welcome development. In developing such services PSNI resources might be released from attending such crimes and be better targeted towards those victims most in need.
- 2.10 Despite PSNI policies which impact on victim contact, as in the 2005 inspection, Inspectors again heard that victims and witnesses had difficulties trying to make contact with the Officers in charge, or getting them to return calls. Inspectors heard a number of concerns regarding initial contact management, and where unease was expressed this tended to focus on delays in getting through to the right person/Officer in order to have their complaints dealt with. One example was quoted of a MLA who wanted to speak with an individual Officer having to make five telephone calls before a response was received. Reasons quoted for these types of difficulties included shift patterns, other duties, leave and training commitments and indeed difficulties navigating the call management system. Some evidence of these issues are apparent in the Police Ombudsman Annual Report and Accounts for the year ended March 2011. This indicated there were 131 complaints of failure to return calls/return correspondence in the preceding year.

Insofar as the physical response to initial reports were concerned there was a wide variety of views and responses from victims and witnesses reflecting a varied response from the very good to the very poor. Many victims who spoke with Inspectors were concerned at the time taken to respond to some calls.

- 2.11 Inspectors heard evidence from the victim of a series of concerning racially motivated attacks and anti-social behaviour. Officers responding over a two-year period frequently were unable to demonstrate any knowledge of the extent and depth of previous incidents and reports. The victim thus had to repeat herself and was left with a feeling, at best, that the police system was not inter-connected and at worst that police did not care about solving the issues. In exploring this particular issue it was apparent to Inspectors that there was no consistent policy or practice in the PSNI which ensured that Officers responding to victims were able to be made aware of previous reports or incidents from the same victim/address. The exception was in domestic incidents, where Officers spoken to indicated a positive awareness of the need to examine previous incidents and reports.
- 2.12 It is important that repeat victims are accorded the attention necessary to ensure their concerns are recognised. In this respect **Police call management units and staff who are responsible for the dispatch of Officers to calls should consider appropriate system checks to ensure responding Officers are aware of previous reports/incidents, as well as the potential presence of firearms at the address.** Inspectors suggest that this subject is addressed in PSNI policy and in the various call management projects being undertaken in order to ensure that this becomes routine practice. This should not however, prevent emergency response or otherwise lead to unnecessary delays.





2.13 Quality of service delivery, and specifically ease of contact, together with the broader issue of confidence in the entire criminal justice system, are issues which require constant and unrelenting attention. These are not issues which can be left to be dealt with by the delivery of policies or strategies and then 'parked'. Rather, it requires constant effort with strategic oversight, targets and performance monitoring which is embedded within, and as an integral part of business. Inspectors heard evidence of confusion among some victims about the services offered, and of fears about contact with the criminal justice system. This ranged from young people who, rather than speak with Police Officers, would first go to voluntary and community groups (even just to report a crime they had witnessed), through to others who were simply confused about how to contact police. Despite significant ongoing work in this area, these are amongst the continuing challenges facing the criminal justice system and policing in particular.

2.14 Inspectors were advised the current police R4 Project being developed and implemented provides an opportunity for systems to be further advanced to take account of the specific individual needs of victims, targeted at those most in need. This Project seeks to address the area of call management/victim updates and together with initiatives such as the roll-out of individual communication devices to Officers, the Project is aimed at improving the experiences of victims and others. Specifically, the R4 Project aims to deliver:

- corporate standards for service delivery across the PSNI;
- implementing processes and supporting technology to reduce bureaucracy and increase visibility; and
- ensuring a new model for customer contact and management across the PSNI.

2.15 In effect, R4 will mean centrally run OCMTs and contact management/call handling centres. Inspectors have also noted and welcome the publication of ten policing commitments in April 2011 by the PSNI. While this development emerged post-inspection fieldwork, it is nonetheless a very significant and positive further step in the right direction. Cognisance has also been taken of the assurance to monitor the commitments made, and Inspectors were particularly pleased to see a menu of measures/monitoring mechanisms which seek to underpin these. Inspectors hope this, coupled with other initiatives and the matters set out in this report, will improve the consistency and quality of service to victims and witnesses in the future. Judgements on these initiatives will, of course, need to be made in the future.

2.16 It therefore remains to be seen whether the steps being taken in terms of the R4 Project and the ten policing commitments will have the effect of significantly reducing the gaps, or further improve and deliver a more consistent experience for PSNI service users. However, the specific issue of call management will be the subject of a forthcoming inspection by CJI and further detailed comment is left for that report.

## Support referrals

2.17 In following the victim journey through the criminal justice system it would be inconsistent not to mention at this point issues surrounding VSNI insofar as PSNI referrals are concerned. Thus the following paragraphs relate only to the referral process for VSNI. The services of VSNI are described in some further detail later in this report (Chapter 5).

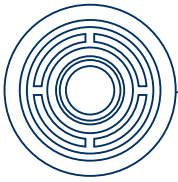
2.18 One of the recurring themes to emerge from fieldwork was unease about referrals from police and the impact that can have on the quality of VSNI's service delivery to the victim. This is something Inspectors highlighted in their 2005 report, and while

some good progress has been made since that time, it is clear that the system continues to leave some gaps. For example, there were a reported 27,562 victims referred to VSNI; whereas the total recorded crime was 109,139 during 2009-10. This represents just over 25%. Of course as an 'opt-out' system for victims, significant proportions may well do so and there may also be cultural issues as to why victims do not wish to engage with VSNI. Indeed, a proportion of these crimes will also be 'victimless', but it remains difficult to understand that over 75% of crime victims decline referral to VSNI support. Victim Support have expressed concern in relation to the time and extent to which operational Officers engage with victims at crime scenes or at initial report, and this was confirmed in Inspectors focus groups with PSNI Officers. However, it was also apparent that significant positive changes have been undertaken, as reported below.

- 2.19 Inspectors were informed that the PSNI make referrals to VSNI in all crime categories twice each week. Among the details supplied are the name, address, contact number, gender, age, ethnicity, Investigating Officer and brief crime details. This is essentially an 'opt-out' system which the PSNI advise, is itself based on advice from the Information Commissioner in order to ensure compliance with the Data Protection Act. Victims are then contacted either by phone or letter; with letters only being used where telephone contact cannot be made. These letters include the details of VSNI services. VSNI have reported significant positive shifts in the number of referrals since February 2010 with increases of some 78%. However, concerns still remain that as a result of the 'opt-out' system operated by the PSNI, that some victims are not offered and/or informed of the services VSNI can provide. Guidance on the referral system for the PSNI and VSNI is contained in local protocols and in the Association of Chief Police Officers (ACPO) – Victim Referral Agreement (December

2003). However, Inspectors are aware that ACPO are currently reviewing their national agreement with Victim Support and that pending the outcome of that, local agreements and information sharing protocols, will have to be reviewed also.

- 2.20 VSNI have recognised that in maintaining an effective relationship with the PSNI there is a need to develop policy at senior levels, and to continually engage with Officers at an operational level, in order to narrow the gaps between policy and service delivery. In an attempt to ensure a better 'front end' service, VSNI have also recently changed their own structural boundaries to match those of the PSNI. This is hoped to advance mutual local understanding and co-operation.
- 2.21 The 2005 CJI report identified that information exchange between the statutory agencies was not being effectively delivered to facilitate the working of VSNI's Witness Service. While there have been clear improvements in a number of areas, there unfortunately remain some gaps. For example, Inspectors heard evidence from Witness Service staff and volunteers that, on many occasions, witnesses simply turn up at their offices without any prior notification or information.
- 2.22 Part of the difficulties experienced concern the clear absence of any formal controlled process or agreement for referrals in the Crown Court. Volunteers usually receive a court list from the NICTS one week ahead of the commencement of trials, from which VSNI have to themselves work out the number of witnesses and cross-match this with any referrals received from the PSNI. The latter is patchy and dependant upon individual Police Officers being pro-active in doing so. There is no structured system to under-pin and facilitate the process. While things are much better in the Magistrates' and Youth Courts there remain difficulties here too. There is a formalised process insofar as the PPS provide an electronic



update of cases and witnesses expected, yet this does not provide the crime type or details of the Police Officer in charge of the case. For example Inspectors, when visiting a number of courts, were told by volunteers that the absence of these details caused practical difficulties and on a busy court day meant that some witnesses could be left unattended. The crime type and Officer details would mean that volunteers could forward plan and give priority to those most in need. The position for the Young Witness Service differs insofar as a protocol exists for referral. However, the NSPCC report that this is not always complied with, and that some referrals can come late or young witnesses who are in need of support are picked up by their staff later in the process. **Inspectors recommend that together with VSNI and the NSPCC, the PSNI and the PPS re-visit referrals to the witness schemes to ensure that gaps can be narrowed and that the service to victims is as seamless as possible.** Specifically this will mean:


- establishing a controlled referral scheme for the Crown Courts similar to those in both the Magistrates' and Youth Courts; and
- subject to any legal limitations, the provision of additional details to assist the witness service in providing a comprehensive service.

Ultimately, these issues should be negated by the recommendation concerning WCUs post.

- 2.23 The PPS departmental instructions in relation to witness referral in the Magistrates' and Youth Courts indicate that in cases which are to be contested the witness (civilian witnesses only), will be advised in the PPS Requirement to Attend letter about the services of VSNI Witness Service. Data Protection Act restrictions prevent the PPS from sending lists of witness details to VSNI without their consent. Thus, the PPS give witnesses a ten-

day period in which they can 'opt-out' of referral to the Witness Service. Following this period, unless a witness 'opts out', the PPS electronically send a list of witnesses to VSNI, from which they are able to make contact with the victim/witness. These arrangements became operational on 26 January 2009. Similar arrangements for referral to the NSPCC Young Witness Service were finalised and put into operation for Magistrates' and Youth Courts in Belfast, Antrim, Lisburn, Craigavon and Londonderry/Derry on 18 December 2009. However, this clearly leaves a gap in terms of some other courts and principally where arrangements for Crown Courts are concerned, victims and witnesses (both adult and young witnesses) do not benefit from any structured and formalised system of referral to the witness services.

- 2.24 Inspectors noted that the PSNI provide victims with a series of leaflets at various stages of contact, ranging from the generic leaflet provided with initial letters, to others on child abuse and sexual crime. Both the latter two leaflets for example, include a section on where to get help and provide contact details for a range of groups assessed by Inspectors to be comprehensive.
- 2.25 Inspectors also assessed the quality of the information in these leaflets themselves to be good. However questions remain regarding the extent to which individual Officers signpost specialist services and provide such information leaflets to victims. The PSNI policy on referral to Victim Support (subject to opt-out) is the standard practice for the vast majority of cases, but specialist Officers, such as those working in areas including domestic and sexual abuse, should be enabled to signpost further appropriate services, where required.
- 2.26 In terms of victim referrals for other support services, including for example, specialist counselling, other health needs, or housing, Inspectors found the criminal justice system agencies were broadly aware



of the needs and, where possible, signposted victims as appropriate and on the basis that the choice for referral was a matter for individuals. However, there was also some evidence of a lack of consistency in signposting victims and this was largely due to the attentiveness of individuals. It was apparent to Inspectors that where additional more intensive support is required by victims, further information is generally provided. A good example is the Criminal Justice System Northern Ireland Bereavement Guide which is usually provided by Police FLOs in relevant cases. This incorporates a detailed array of information ranging from the guide to Northern Ireland's criminal justice system, to Coroners inquests and postmortem examinations.

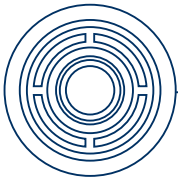
- 2.27 Simplicity must be the key for the great majority of cases within the criminal justice system. To that extent VSNI should be regarded as the 'gateway' for the vast bulk of victims to the aftercare and support services which the criminal justice system cannot, and to prevent mission creep, should not be expected to provide. However, it must remain for individuals, exercising their own judgment and right to choice, as to whether they self-refer to other specialist support services.

## Investigation and updates

- 2.28 Usually, an individual Officer will be nominated as the Investigating Officer/Senior Investigating Officer and victims and witnesses should expect to be informed at an early stage who that is and how they can be contacted. Once again, in the vast majority of cases, this information is provided by the PSNI by way of a formal letter.
- 2.29 Inspectors have examined the standard letters available as an annex to the PSNI policy and forwarded to victims. While broadly appropriate, they appear more detached and business like, than sincere and

sympathetic. The PSNI policy owner is aware of this and advised Inspectors that there was an intent to revise these letters. In addition, Inspectors noted that the standard letters are not available in alternative languages. However, PSNI policy reflects diversity needs in terms of the employment of interpreters, and in dealing with vulnerable victims/groups. While operational PSNI Officers indicated that they could, where necessary use interpreters, there was little evidence during fieldwork of this being used in practice.

- 2.30 In the course of fieldwork, Inspectors raised with the PSNI one further equality issue surrounding letters which concerned visually impaired people who are unable to read letters properly due to size of print. These matters will be incorporated into the PSNI's own review of letters. **Inspectors recommend that victims letters should be revised by the PSNI to take account of the matters raised in this report at paragraphs 2.29 and 2.30.**
- 2.31 While not unique to the PSNI, Inspectors were concerned that in many respects the systems and practices applied are, in fact, a 'one size fits all' approach. For example, it is clear that the PSNI response to crime victims can be one dimensional, insofar as Officers responding act largely as crime recorders, and the follow-up systems, including letters are standard and have little regard to the particular needs of the victim. One victim told Inspectors that she received standard letters in English about a serious crime she had reported, despite the fact that responding Police were aware that she did not speak English. Indeed, a middle ranking Police Officer told Inspectors about dealing with a complaint in which letters had been sent to a victim where portions (including the name of the Investigating Officer) had been left blank. One victim told Inspectors "Police didn't update me on any stage of the case development." These types of issues, whether rare or otherwise, point to the need for clear attention to the personal



impact and for individual case management mechanisms to enable an effective targeted and appropriate follow-up for victims. It was also apparent to Inspectors that there is a real need for PSNI Officers, at every level, to apply a customer service approach to all contact with victims and witnesses.

- 2.32 As part of the inspection process, CJI conducted a dip sample exercise of police computer records in order to determine the recording level of victim contact and update. For each of the eight police districts at least two cases were randomly examined. The main themes emerging included:
- there were a mix of cases ranging from those where very good updates had been recorded, to those where none were recorded. This does not mean that victim updates were not happening, simply that they were not recorded on the central database and therefore were not auditable by supervisors;
  - there was a clear lack of understanding as to where victim updates should be recorded. In most cases, victim updates were recorded, by default, as part of the investigative action log;
  - full information was not recorded on these logs as to the forwarding of standard letters. Thus, if an Investigating Officer wanted to check whether a letter had been sent and when, this information was not recorded. A drop down menu did record the fact that a letter was sent – not the date. In addition, unless Officers are using the NICHE IT system regularly, it is cumbersome to navigate; and
  - it was apparent that the standard of information and victim updates from E District<sup>12</sup> was of a much higher standard than in other areas. This is due to the R4 Project mentioned earlier. Similarly, in H District<sup>13</sup> it was apparent that the OCMT Manager was active in directing

Officers to both update and record victim updates. Thus, where there is a specific focus, it was clear that the recording of victim updates (and consequently service delivery) was of a higher standard than elsewhere.


Inspectors understand that the PSNI have subsequently made some changes to the NICHE system which will mitigate some of the difficulties in recording, and identified during the inspection.

- 2.33 Examples of matters raised with Inspectors during the course of fieldwork included concerns (raised from a number of quarters) of witnesses being told by Police Officers that if they gave a statement, they would not have to give evidence. This practice is clearly a misrepresentation. The outworking of this is that witnesses can become frustrated and reluctant. Furthermore, it creates real difficulty for others in the criminal justice system. **Inspectors recommend the PSNI reminds all Officers of the need to ensure appropriate advice is provided to all witnesses regarding the provision of a formal written statement.**
- 2.34 Inspectors were encouraged to see that there are appropriate prompts to witness care in the standard PSNI statement forms, as Officers are asked to indicate whether the witness may be vulnerable, intimidated or require special needs. Moreover, the PSNI Short Crime Report forms seen by Inspectors deal with whether victims prefer correspondence to be sent to their home/business or other location. However, arising from case file reviews conducted by Inspectors, it was apparent that this kind of information was not being fully utilised and, for example, passed to the PPS for the purpose of considering special measures for vulnerable and/or intimidated witnesses. Inspectors would therefore encourage the

<sup>12</sup> E District covers Armagh, Craigavon, Banbridge, Newry and Mourne.

<sup>13</sup> H District covers Coleraine, Ballymoney, Moyle, Ballymena, Larne.





PSNI to examine how such information can be utilised to best effect in ensuring that vulnerable witnesses are identified early, and their details passed to the PPS. Inspectors found during the course of fieldwork for example, that in very many cases the PSNI report to the PPS did not highlight the obvious vulnerabilities of witnesses.

2.35 During fieldwork, Inspectors heard about 'victim contracts' operating in some police services, and while these should not be regarded as legally binding agreements in the strict sense, they are a way of engaging with victims to consider their specific needs and agreeing a way forward. For example, a young male victim of a theft from his vehicle is most unlikely, unless vulnerable for some other reason, to need much in the way of support or follow-up. If responding police were to engage and ask what his expectations of follow-up might be, these will be limited or absent. On the other hand, an older person who has been the subject of a violent crime will require more detailed attention, crime prevention intervention and potentially other services. Thus the engagement and assessment can be tailored to needs. Inspectors recognise that there will be an element of subjectivity to this. However, in the vast majority of cases it is likely to be appropriate, again as part of the overall victim/witness personal care package. Therefore, the system can be tailored to those most in need and ensure that efforts are not wasted on those cases where follow-up (letters etc.) is nugatory.

2.36 Inspectors are acutely conscious of the need to balance this with the drive within policing generally to reduce bureaucracy and with the fact that most witnesses will not be required to give evidence in court. Nonetheless, **Inspectors recommend the PSNI ensures maximum use is made of initial needs assessments as part of victim and witness care.** This should be seen as the beginning of a continuum of appropriate care (needs assessment) for

victims and witnesses and information exchange with other relevant parties.

2.37 A further common issue heard by Inspectors was the failure of some Officers to take the complaints of victims seriously. This ranged from a case where a series of telephone calls was examined for explicit content, but no consideration was ever given to the overall possibility of a 'harassment' case resulting from the lengthy series of calls, to another case where a telephone message, which could have raised concern, that a young child was at risk of abuse being dismissed as a prank without proper consideration.

2.38 By way of confirmation of Inspectors findings, in terms of a patchy service for victims and witnesses, in its 2011 Annual Report the Office of the Police Ombudsman for Northern Ireland (OPONI) reported that in the year ended March 2011 there were a total of 215 complaints of 'failure to update'. One victim told Inspectors *"I would have liked the police to actually inform me of what was happening instead of me having to ring them constantly to get any information."*

2.39 In their examination of issues surrounding the investigation and prosecution of rape and serious sexual offences, Inspectors highlighted a number of issues which are common to those identified in this report. Specifically, Inspectors commented at paragraph 6.12 of that report *'The lack of updates provided by some Officers was a source of concern...'* This issue therefore remains relevant in its broader sense to all victims and Inspectors make a further specific comment on this matter at paragraph 6.37 in respect of victim journey/business process mapping.

2.40 Despite ongoing outreach and engagement work in this area, some of the groups and victims representing the ethnic minority communities in Northern Ireland indicated that they were reluctant to engage with police. This was stated to be mainly due to:



- experiencing poor service when reporting incidents to the police. This included many who felt that the issues would not be taken seriously or considered important;
- language becoming a barrier (despite good access to interpreter services);
- a perception that “*state authorities are corrupt*”, based on their experience/views from their country of origin; and
- fear that a complaint made against the police will result in harassment or lack of service in future.

### Inconsistency of service

2.41 In evidence provided to the Northern Ireland Council for Ethnic Minorities (NICEM) when asked what they would like to see police doing differently, the following responses were provided:

- “*respond to calls differently - I felt unsafe and more vulnerable after I called the police*”;
- “*patrol cars in peaceful areas and not trouble spots - this should be reversed*”; and
- “*confront [named group] people who are creating problems*”.

2.42 Other matters highlighted by minority representative groups included:

- while the PSNI use the McPherson definition<sup>14</sup> for hate crime in its policy, Inspectors heard a number of examples where police had refused to record matters as hate crime; and
- consistency of service from the PSNI - several groups referred to inconsistencies in terms of the standard of service.

2.43 Inspectors met with staff from The Rainbow Project and discussed the concerns relating to victims of hate crime. It was noted that many victims of homophobic and other similar hate related crimes remain reluctant

to come forward to report those crimes to the police. There can be a variety of reasons including:

- outing of an individual who would prefer to retain privacy;
- impact on other relationships with family, friends and colleagues;
- lack of trust in confidentiality of police;
- no desire to give evidence in a public court;
- possible media coverage; and
- fear of censure connected with other criminal activity (for example, ‘cruising’ or recreational drug taking).

2.44 While Inspectors acknowledge the PSNI are engaged in important work to improve confidence for a range of minority groups, for members of the lesbian, gay and bi-sexual communities there is a general lack of recognition of low-level hate crime across the criminal justice system. As with other groups, The Rainbow Project referred to a lack of consistency in practice across the PSNI. One senior representative told Inspectors that as the police were regarded as the gateway to the criminal justice system “*If they fail it all fails because it [cases] will never get to court.*”

### Police training

2.45 While there is no specific stand-alone training dedicated to victim and witness care for student officers, victim and witness issues are an integral part of training and are broadly covered under the subject of ‘vulnerable and intimidated witnesses’. Inspectors have examined the student officer training notes relevant to this subject, and while the aims and objectives certainly provide a signpost to the need for the provision of a quality service, it goes on to concentrate on vulnerable and intimidated witnesses and how they should be identified and dealt with. This does not

<sup>14</sup> The Stephen Lawrence Inquiry - Report of an Inquiry by Sir William MacPherson of Cluny, The Stationery Office, February 1999.



deal with the issues of victim and witness care and attention, and the responsibilities outlined for example, in the PSNI policy 2005-06. Inspectors also met with the Head of Training for the PSNI and were informed that a constant thread running throughout student officer training was a practically based focus on inter-personal skills and victims. While lessons do not specifically deal with victim and witness care, the focus on practical situations means that students are continually assessed, not only in how they apply the law, but also in how they interact with and consider the needs of victims. This is backed up by and reinforced with external involvement in student role plays from a number of voluntary and community sector organisations, such as VSNI and Women's Aid, as well as from some ethnic minority groups. The issue of customer care is thus said to be 'mainstreamed' in the entire student officer programme.

2.46 While there is an appropriate focus on training for student officers, it is vitally important that all Officers recognise the effects of their contact with victims and witnesses and the resultant confidence in the criminal justice system.

2.47 It was apparent to Inspectors that there was a significant gap in terms of the training of Officers post-foundation (student and probation). District Commanders reported that elements of the delivery of district training were centrally driven and they had limited influence in this. Localised elements of training were being delivered, for example, in C District<sup>15</sup>, with a member of Women's Aid working alongside the police Domestic Violence Officer one half-day each week. However, all of this was piecemeal, depended upon individuals and lacked strategic focus. **On the matter of post-foundation training, Inspectors would recommend the PSNI examine how they can deliver appropriate victim**

**focused refresher training to Officers who are routinely engaged in public response (whether by way of call management or physical response) at key stages.** For example, Inspectors envisage that as the Patten Voluntary Severance Programme comes to an end, and Officers are more likely to remain in post for longer periods of time, the opportunity arises for formalised refresher training once every three - five years. This would be in addition to district training delivered centrally in the Police College and compulsory for Officers who remain in relevant roles interfacing regularly with the public. This should be linked to accredited training, continuous professional development and formal appraisals.

2.48 **Inspectors recommend the PSNI ensures that cultures embedded in the Police College and in student officers are transferred from the training environment to the front line and maintained over time. This can be achieved by:**

- **supervision by experienced Officers at Sergeant rank and above;**
- **the maintenance of a culture of customer care/customer focus and interpersonal skills;**
- **delivery of mechanisms which assist the process of victim and witness care and further embed the culture of customer focus; and**
- **delivery of further training to front line Officers at key points in their service [as recommended at paragraph 2.47].**

## Performance

2.49 The PSNI largely measures its performance via a series of surveys among which include the Northern Ireland Omnibus Survey and NIVAWS. The following findings from the 2010-11 NIVAWS are relevant to consider

<sup>15</sup> C District covers North Down, Ards, Castlereagh, Down.



in a broader assessment of the care and treatment of victims and witnesses:

- 95% of respondents reported being satisfied with the way they had been treated while giving their statement;
- 17% of respondents stated that they had not heard anything officially about the progress of their case;
- 32% of respondents reported that they had not been kept informed when asked who in the criminal justice system had kept them informed about progress;
- 58% of respondents reported being satisfied with how often they were updated, while 36% expressed dissatisfaction;
- overall, 76% of respondents reported that they had been satisfied with the information they had received about case progress, while 20% expressed dissatisfaction. This finding is further supported by 22% of respondents reporting they did not know what the outcome of their case had been;
- three fifths of survey respondents (56%) stated that they had been given the name or telephone number of someone they could ask about the progress of their case; and
- 89% of witnesses said if they witnessed a similar crime in the future, they would report the incident to police. Similarly, 83% of victims reported they would report a similar crime in the future.

2.50 Evidence of gaps, in terms of service, were apparent as Inspectors found there was a patchy awareness and understanding of the PSNI policy on victims and witnesses. It was clear, for example, there were divergent views across districts and even within districts of how the service was to be delivered. Inspectors were told about the Victim Update Bureau model operating in the H District, and while there appeared to be some very positive redeeming features to this, it is now being superseded by, and incorporated within the new R4 model discussed earlier. Evidence arising from

Inspectors contact with victims provides ample confirmation of a divergent approach to call handling and first response by the PSNI. In addition, Inspectors' findings from focus groups held with PSNI staff, clearly demonstrated a significant gap between victims expectations on the one hand and the delivery and understanding of policy on the other.

2.51 Inspectors conducted a series of workshops with PSNI Officers across a range of geographical areas and ranks, from Constable to Inspector, and also across a range of disciplines, including Response Officers, call management, OCMTs and Detectives.

2.52 In this contact Inspectors heard from Police Officers that the pace of change within the PSNI left them bemused as to what they were expected to deliver, and what the priorities were. Response Officers invariably stated they felt overwhelmed by the internal changes to various aspects of policy and priorities. Indeed one Senior Officer spoke of a recent change regarding emphasis from 'Prevent/Protect/Catch and Reassure' and the various targets underpinning these, to the current Chief Constable's three P's model (Personal/Professional/Protective policing), as evidence of the seemingly constant shifting emphasis. More often Response Officers spoke of the volume of calls they have to attend, and the consequence of being unable to spend any time with victims or indeed to follow-up with updates. One Officer spoke of being unable to spend any time inside the station in order to make the calls necessary to comply with requests for victim updates. This view was replicated by other Officers spoken to, most notably in large urban areas – areas where the vast bulk of volume crime issues are dealt with. Officers in Neighbourhood Teams on the other hand felt they did have more time to spend with victims and provided a more personalised follow-up service following Response Officers' interventions. Police Officers

spoken to had little understanding of the 'back office' functions and follow-up letters received by victims. Inspectors would highlight that there is a real need for the PSNI to provide simple, consistent messages both to Officers and thus to victims and witnesses. Secondly, to continue to ensure Officers have the necessary back-up systems and supervision, to enable seamless service delivery from the point of view of victims and witnesses. In this regard Inspectors consider that the ten policing commitments referred to earlier are a welcome development.

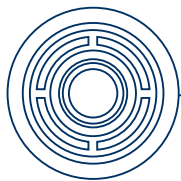
2.53 Some Officers informed Inspectors they felt there was a skills deficit among front line staff, especially regarding inter-personal skills, and that this impacted on professional standards. Response Officers spoken to considered the workload and hectic nature of their daily routines as negatively impacting on service delivery. Similarly, in their various contact with victims, victims groups and in the CJI survey of victims and witnesses (see Appendix 2), it was apparent that the level of service delivery was varied and this ranged from Officers who were clearly very professional and conscientious, to those victims who felt completely let down by the response and service.

2.54 By way of balance, and despite some of the issues highlighted in this report, there was also ample evidence of PSNI Officers' real attentiveness to victims. This was especially apparent in the more serious crime categories (such as sexual offences and murder), as Inspectors might properly expect. CJI heard evidence of Officers who clearly went above and beyond the call of duty to address the needs and concerns of victims. Moreover, there were areas of good practice apparent, and while there were many which might, at face value, appear as appropriate and laudable, there was no central awareness, co-ordination or evaluation of these initiatives nor application of their positive benefits to wider policy. **Inspectors would recommend that**

**there is a central oversight and evaluation by the PSNI Criminal Justice Directorate of policing initiatives and, where appropriate, corporate application of the learning. This could take the form of a good practice website where others could learn from the positive and negative aspects of such schemes.** In this way, the innovative practices and initiative given to Officers should not be stifled. It will also allow the benefits of central oversight and evaluation to be made available to others. Such an initiative, together with the R4 Project, could begin to address the apparent inconsistencies of service mentioned.

2.55 Some comments illustrative of the positive service received by victims included:

- *"The Police Officer was very kind and impartial. She was good at giving updates."*
- *"Police were very thorough with their investigation and the FLO was very informative."*
- *"[I had] contact with two specific Officers - through the case and their sense of caring about what they were doing and how I was feeling. How quickly investigation moved, initially."*
- *"I was happy with the way the policeman kept in touch with me to let me know what was happening - very much so."*
- *"Excellent response time from both the PSNI response and CID and good follow-up."*
- *"Immediate contact with FLO [from] PSNI who stayed at our home throughout the whole night of date of accident."*
- *"Excellent service provided by the PSNI in terms of response and follow-up communication."*



## CHAPTER 3:

# The process of prosecution and its impact



### Introduction

- 3.1 The PPS is committed to providing effective services to victims and witnesses. It recognises that improving services and support for victims and witnesses, and ensuring their needs are met, is integral to the effectiveness of the criminal justice system. At the same time the PPS does not represent the interests of victims and witnesses within the system. Decisions on whether to prosecute are made within the context of the Code for Prosecutors and are based upon tests for evidence and whether the case is in the public interest.

### Policy and performance

- 3.2 In its Annual Business Plan for 2010-11 the PPS has set out a key strategic priority to address the needs of victims and witnesses. The stated objective in doing so is 'to ensure that our service delivery addresses the needs of victims and witnesses of crime.' The key milestone set out is to evaluate revised arrangements for the giving of reasons.
- 3.3 Relevant key performance indicators are the percentage of victims and witnesses satisfied with the overall service provided by the PPS (to be assessed by the NIVAWS); and the percentage of witness expense claims processed and authorised for payment within four working days.
- 3.4 The PPS monitors its strategic objective (above) via the NIVAWS, and in 2010-11

performance in terms of victim and witness satisfaction fell below that target by 5.8% (69.3%). Both targets in respect of expense claims were either met or exceeded.

- 3.5 The PPS Code for Prosecutors further sets out service standards which, in summary, include the following key commitments: *'The Prosecution Service is committed to delivering a comprehensive set of services to victims and witnesses, from the point that the Prosecution Service assumes responsibility for a case until the case is disposed of'*.

The range of services to be provided to victims and witnesses include:

#### Information Provision

- Delivery of information at key milestones in the progress of a case, for example, prosecutorial disposal decision, notification of any major changes to the case, etc.

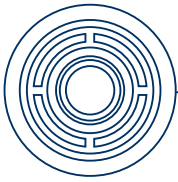
#### Court Attendance

- Arranging and providing information in support of attendance of the victims and witnesses at court, for example ensuring witness availability.

#### Support Services

- Providing specialist support services to victims and witnesses as the case progresses through partnerships with Victim Support and the NSPCC, for example to those persons who are vulnerable, intimidated or have particular requirements;





- the Prosecutor will carry out his/her responsibility fully under Article 14(c) of the Criminal Justice (Northern Ireland) Order 1994 to make representations regarding compensation for the victim where it is appropriate. These representations will relate to both the consideration of the appropriateness of compensation, and also to the quantum, if the court decides to award compensation;
- the Prosecution Service will work in partnership with other criminal justice organisations (for example the PSNI, and the NICTS, etc.) and voluntary sector bodies to ensure that these services are delivered in a timely manner and to an acceptable level of quality; and
- the Prosecution Service will also provide appropriate mechanisms and processes to allow victims and witnesses to make complaints about the level and quality of services provided by the Prosecution Service.

## Victim contact

- 3.6 In order to assess delivery against commitments Inspectors conducted a number of focus groups with Prosecutors, together with a range of interviews with PPS staff at various levels. It was apparent to Inspectors that PPS staff were most conscious of the dichotomy between hearing and taking account of the needs of victims on the one hand, and not being seen to act as an advocate for individual victims. Many Prosecutors spoken to by Inspectors pointed out the independence of the Prosecution Service and the need to ensure that there was an understanding they did not act on behalf of victims. This is but one of the existing tensions within the criminal justice system insofar as its relationship with victims is concerned, and some criticism of the PPS can stem from a lack of understanding as to its role in relation to victims of crime.
- 3.7 Inspectors also spoke with PPS staff in respect of policy and quality assurance, and learned that the key formal contact points for Prosecutors with victims are as follows:
- receipt of file for 'serious' (indictable) cases;
  - decision;
  - requirement to attend (court);
  - court outcome; and
  - appeal.
- 3.8 In each case this key contact is a formal letter, which is completed largely by administrators at the direction of Prosecutors. The PPS computer system for managing cases is the Case Management System (CMS). It provides Prosecutors with a series of standardised letters which may be amended to suit particular needs. Inspectors found some good examples of where letters were in fact amended to very good effect. In addition, many of the letters forwarded by the PPS also enclose relevant leaflets. For example, a leaflet entitled 'The Role of the Public Prosecution Service' and Victim Support leaflets.
- 3.9 The PPS policy is that letters notifying victims of receipt of the file takes place only in indictable (usually Crown Court) cases, 30 days after receipt of the file. The letter does not issue in summary (usually Magistrates' Court) cases as decisions are normally issued in less than 30 days, therefore a decision letter is sent. With the exception of the last letter, all other letters incorporate details of the PPS Community Liaison information line.
- 3.10 Inspectors consider that a major part of the difficulty in terms of these contacts concerns the lack of clarity as to responsibility at various stages, and in the various courts as to who is responsible for updates. While the PPS accept that they are responsible for keeping victims and witnesses informed regarding '*progress of the file*' on the one hand, on the other major policy statements state that the PPS offer



*'comprehensive victims and witness care'.*

These confusions, lack of clarity and responsibility feed practices which are less than comprehensive, and result in significant numbers of victims and witnesses being disregarded in terms of updates about matters which they consider important. These can include bail, adjournments, allied hearings and applications, as well as trial dates. Illustrating the problem, one victim told Inspectors *"I feel the assailant was treated better than me, they received all the help and support they needed and they received all the information from the case. I was not informed of anything."* Another said, *"I would like to have been informed more when my court case was. I only found out the result in my local paper when the court made their decision. No date was ever given to me."* The issues touched upon here are further discussed at paragraph 3.40.

- 3.11 On this latter subject the PPS have advised that if a defendant pleads guilty and is sentenced, the victim will not automatically have been notified, albeit that letters advising of court outcomes are provided by the PPS as described at paragraph 3.7. Inspectors are also conscious that there may be occasions where, due to the nature of almost instant media reporting, that matters may be reported in the media prior to a victim being advised. In addition, it is not PPS policy to advise interested parties regarding every case adjournment given the volumes involved. The PPS have advised Inspectors that in the Belfast area alone there are an average 350 cases per day adjourned, and the efforts to advise victims and witnesses in each of these cases would be disproportionate. The recommendation made by Inspectors at paragraph 6.52 regarding the establishment of WCUs may well assist in dealing with some of these issues. In addition, the PPS are taking steps to provide a Victim Information Portal which is a most welcome initiative and, once again should assist in this area.

- 3.12 The PPS victims and witnesses policy also sets out services to victims and witnesses which states that *'Whilst the law does not require victims to be informed about the proceedings and the services available to them, the PPS is committed to ensuring that victims are kept informed...'* Clearly, as a statement of fact this is correct and the law does not currently require this. Such statements may nonetheless feed negative cultures and leave a residual feeling of reluctance and a lack of enthusiasm on the part of victims and witnesses. Inspectors have been advised that the PPS are reviewing their policy and suggest that on revision of this the statement simply commences with *'The PPS are committed to...'* etc.

- 3.13 As part of the inspection process Inspectors examined 20 PPS case files in order to determine the level of contact with victims and assess the standard of those contacts. In all these cases, the main contact was by way of letter, however, in a small number of cases, consultations did also take place with victims. The cases examined included 10 matters from the Magistrates' Courts and a further 10 from the Crown Court. Given the overall numbers of cases dealt with per annum, the sample is thus weighted towards the Crown Court. In view of Inspectors other findings that weighting was considered appropriate. The case file reviews were 'backed up' by a second check of correspondence recorded on the CMS to ensure that nothing was overlooked. Inspectors general findings from this review may be summarised as follows:

- In a number of cases, while it was apparent from both the addressee details on the letter and on the file, that the recipient was from an ethnic minority community, the letter was sent in English with nothing to indicate that translation or pinpointing the import of the letter in alternative languages was included. The PPS have advised that administrators responsible for sending letters have available a standard document which may



be included alongside letters. This document states, in thirteen different languages, *'This is an important document requiring you to attend court in the case in which you are a witness. It informs you of the date, time and location you are required to attend. If you do not understand it you are advised to have someone translate it.'* Inspectors felt that this notice was not widely in use except perhaps by CLT staff and would encourage the PPS to review the inclusion of notices, such as those for victims/witnesses whose ethnic origin indicates their first language may not be English.


- Many of the letters seen by Inspectors were addressed 'Dear Sir/Madam'. In other words, there had been no attempt to distinguish and this could be considered as a lack of feeling.
- Many of the letters used the heading provided in the standard letter template 'Notification of Decision To Victim'. Some recipients may not consider themselves as 'victims'. Indeed, Inspectors were told that this term denoted them as in some way weak. Inspectors are pleased to report that the PPS have advised this matter has already been addressed as part of their ongoing review of letters. In many cases the notice accompanying the court outcome included a lot of unintelligible information such as, 'S DCU: DAST DCU: Dungannon'. Also, the actual charge was included with a separate box indicating the court outcome as guilty/not guilty. The actual legal charge might be difficult for some recipients to understand and Inspectors recommend that a heading is included above each charge which is short and summarises the offence (for example, burglary/theft/robbery/taking a vehicle without consent/driving while disqualified etc.).
- In one Crown Court case there was no evidence recorded either in the file or

on the CMS that any letters or contact had been made with the victim in a contested case of grievous bodily harm.

- Inspectors did not see any letters notifying victims of receipt of the file in the sample, despite a significant proportion of these being indictable cases.
- Some letters seen had clearly been appropriately amended to exclude some of the legalistic jargon and other superfluous material mentioned. Thus, some Prosecutors clearly took the time to ensure that the communication was appropriate. For Inspectors this demonstrated that despite the volumes there can be appropriate focus on good quality communication.

3.14 Inspectors were advised by the PPS that it is undertaking a full review of communication with victims and witnesses which is to be welcomed. However, overall the conclusions from this inspection work, is that the PPS need to continue to strive to ensure greater accuracy and consistency in terms of its victim contact and update. **Inspectors recommend that the PPS review of letters take account of the findings and comments at paragraph 3.12 and paragraphs 3.14 - 3.18.**

3.15 Inspectors also examined a small number of letters in cases of no prosecution (provided by Prosecutors), and these were largely appropriate and empathetic. One such letter in a very difficult sexual offence case, at some length, points out the specific problems in proceeding with a prosecution, and it is clear that not only did the Prosecutor and Counsel meet with the victim to explain, but that the letter was a follow-up to ensure understanding of the position. This position is underscored by feedback from the 2009-10 NIVAWS which indicates that 64% of people who were asked if they received a letter from the PPS informing them of a decision in their case



said they did. When asked if the letter was clear and easy to understand 90.4% said it was.

3.16 Despite this, Inspectors heard from a number of victims who expressed concern regarding their understanding of letters from the PPS. Some referred to letters which they felt were curt, legalistic and difficult to understand. One victim commented, *“They didn’t keep me informed and they just wrote a letter to say they weren’t going to prosecute. It was rather impersonal.”* Another victim commented, *“We should have been contacted immediately about the outcome of the case and the letter should have explained in detail what impact the attackers sentence would have on us.”* Victims also referred to letters which left the impression that they were not believed. This seems to be supported by further feedback in the NIVAWS which indicates that 29.4% of respondents felt that the PPS could have provided more information or support. Of that number, this was further broken down into the following areas:

- providing more information/keeping up-to-date – 38.7%;
- explain why the case did not proceed – 17.7%;
- informed of the support services available – 11.3%; and
- treat victims with more care/more emotional support – 11.3%.

3.17 The negative feedback heard by Inspectors may very well reflect the kind of standardised letters issued by the PPS for cases of no prosecution. These are letters which simply indicate that the PPS have decided not to prosecute on the basis of either (a) the case did not meet the evidential test or (b) did not meet the public interest test. The PPS rely on standardised computer generated correspondence which tended towards legalistic language. It must of course be acknowledged that the use of standardised communication is necessary when

considering the volume of correspondence. The PPS estimate that they issue some 8,000 letters per month. Inspectors hope that the ongoing review of letters within the PPS will deal with some of the negative aspects of such a system, including ensuring that, insofar as possible, such communication is personal and empathetic.

3.18 Whatever the factual legal position or the feedback from the NIVAWS, Inspectors would encourage the PPS to continue to ensure that in every case where victims are being informed of a prosecution decision, especially where no prosecution is being directed, that communication is considered as an important aspect of the role of Prosecutors. It should be the personal responsibility of Prosecutors to ensure that communication is appropriate in all the circumstances. This should encapsulate clear, compassionate and simple communication without recourse to legalistic or seemingly patronising language for victims. This remains important to the overall confidence in the criminal justice system. By way of example, Inspectors were provided with correspondence issued by the PPS in one murder case:

- notifying the family of a no prosecution decision two days before the anniversary of the murder - a particularly sensitive time (although Inspectors recognise the duty to communicate decisions expediently);
- the media were contacting the family before the official communication from the PPS had been received; and
- in further correspondence advising on matters pertinent to their sons murder extending, *‘...best wishes for the Christmas season.’*

3.19 Inspectors also heard concerns from a number of victims/victims groups regarding their perception of a culture and reluctance within the PPS to communicate fully and openly. For example, one victim told Inspectors, *“They seem removed from ordinary*



people.” Another commented, “*The PPS had to be chased to meet with us. They were evasive and difficult...we were treated as if we didn’t know the case and they were evasive around the issue of charges and deals.*” As further evidence, many, including some voluntary and community sector groups, referred to what they saw as a kind of haughty and legalistic language, as well as a real lack of enthusiasm to openly engage. Inspectors also found this was reflected in much of the correspondence seen by them during the course of inspection. Some of this material was provided by victims and others by the PPS, or was seen during the course of case file reviews. In very many instances there was no open offer to meet/discuss or to point out the rights of victims to ask for further details, or indeed ask for a review of decisions. Whatever the realities, such negative feelings need to be addressed by the PPS. There were also, in balance, a number of exemplary letters seen by Inspectors - once again pointing to the capacity to provide a high quality service.

## Decisions and reasons

3.20 Inspectors learned that the general practice within the PPS is to provide a letter to victims/victim families of their decisions. In cases where a decision has been made not to prosecute, letters indicate the reason in general terms, for example, whether that decision was on an evidential or public interest basis. This general practice policy is reviewed where a specific request for the provision of reasons is made. However, in a ‘revised scheme’ (operational from 30 September 2009) specific categories of cases are set out in which Prosecutors are directed to provide more detailed letters, subject to some limitations. It is acknowledged here that the PPS have revised their practices in respect of the giving of reasons, and have undertaken quality assurance reviews of their position. Nonetheless, this is an area in which Inspectors will shortly report the findings of a specific and more detailed inspection

incorporating related issues, including reviews of decisions and issues concerning the acceptance of pleas to lesser offences. Further specific comment is thus left for that report.


## Community Liaison Teams (CLTs)

3.21 The PPS has established dedicated CLTs who provide a range of services to victims and witnesses for the prosecution, who are involved in Magistrates’ and Youth Court cases. This includes being a contact point for victims and witnesses who have queries concerning the overall prosecution process and the progress of their specific case. The key milestones in terms of the operation of the CLT’s are:

- victims/witnesses will be contacted by a CLT staff member to check availability prior to a date being fixed for a contest;
- victims/witness letters of notification/invitation to attend court are produced by a CLT and are issued to victims/witnesses usually by post. These letters include expenses forms, guidance notes and support service information leaflets (such as VSNi);
- where English is not the first language of the victim/witness the CLT will endeavour to organise a suitable interpreter;
- if applicable the CLT will make travel/accommodation arrangements for witnesses who are required to attend; and
- CLT staff will contact victims/witnesses to advise them of any change with regard to court dates/venue.

3.22 Inspectors acknowledge the work of the PPS in establishing and rolling out their CLTs across Northern Ireland. These offices operate a service broadly analogous to that of WCU’s in England and Wales, but only for the Youth and Magistrates’ Courts. The CLTs do not however operate for the Crown Court, where different procedures apply. In the Crown Court the PPS rely on





police Investigating Officers for contact with and securing the attendance of witnesses at court. The PPS have informed Inspectors that they see the arrangements operating in the Crown Court as more appropriate, and as delivering a better quality of care with direct contact from investigating police. For example, all witness availability and service of witness requirement to attend and summonses are served by, or on behalf of, the Investigating Officer.

3.23 In effect then, two process streams are running necessarily different systems insofar as the care of victims and witnesses are concerned. Inspectors heard some positive stories of how things worked well in the two mainstream systems in both the Magistrates' and Crown Courts, and it must be said that, for the vast majority of cases there are few problems. But the lack of real clarity, ownership and responsibility has the potential to lead to problems arising and does not provide a seamless service for victims and witnesses. There is a sense of confusion in the systems as to whose responsibility it is to ensure that victims and witnesses are assisted and guided through the prosecution phase of the criminal justice system. This was particularly apparent when Inspectors spoke with practitioners in policing and prosecution, and there was clear confusion as to who had primary responsibility for victims and witnesses at various stages of the criminal justice process.

3.24 It is arguable as to whether the service provided by police for Crown Court cases is more efficient (as opposed to effective), given that the overall costs of Police Officers administering a witness care service must be considered as a factor. In addition, the current practice is contrary to the spirit of recommendations in the Criminal Justice Review 2000, and is at odds both with the PSNI policy and the PPS Code for Prosecutors. The latter states *'The Prosecution Service is committed to delivering a comprehensive set of services to victims and*

*witness, from the point that the Prosecution Service assumes responsibility for a case until the case is disposed of.'* There is, in fact, no clarity regarding when responsibility is assumed. Clearly, there is at the least room for confusion as to who is responsible for the delivery of some services. Similarly, the PSNI policy on dealing with victims and witnesses states *'From the date on which a charged person appears at court, or in report cases when the file has been forwarded to the PPS, responsibility for updating victims on the progress of the file will lie with the PPS.'* The latter leaves unanswered exactly who is responsible for all other aspects of victim and witness care, except on the matter of file progress.

3.25 In addition to the other matters highlighted, CLTs do not at any stage liaise with communities. To that extent Inspectors view their title as a misnomer. **It is therefore recommended that the CLTs become a WCU and that the role is extended to the Crown Courts.** This will require a degree of joint working with the PSNI and the sharing of staff to create a 'Victim and Witness Care Unit'. This recommendation is also linked to the further recommendation post regarding WCUs (see paragraph 6.52).

## PPS consultations

3.26 The PPS separately sets out in its victims and witnesses policy two matters relevant to consultations. Firstly, *'When a prosecution is brought the Prosecutor will normally consult with the witness before the trial. Depending on the nature of the evidence to be given this may be on the day of the trial or at an earlier date.'* Secondly, *'The Prosecutor will introduce themselves to the witness prior to the contest or trial and answer any queries they may have about what to expect in court.'*

3.27 Inspectors found from various focus groups that this appeared, in practice, to be more an aspiration than a reality in the vast bulk of cases which are dealt with in Magistrates'



Courts. Prosecutors, for example, with a common voice expressed real concern that they were unable to do this simply because of the number of cases listed in any one day. While it is acknowledged that in some areas Prosecutors are making attempts to change practices (with, for example, two Prosecutors attending and one dedicated to contested cases), it remains the case that the service to victims and witnesses can be unpredictable and inconsistent.

3.28 On the wider issue of pre-trial consultations, Inspectors heard that the nature of consultations with victims by PPS lawyers was very much a judgement in each individual case. It was apparent to Inspectors that individual Prosecutors and Counsel took differing approaches, but the common thread was one of ensuring that, where necessary and appropriate, consultations were arranged. The judgement as to when a consultation was necessary was one entirely for the Prosecutor, often in consultation with investigating agencies. It is regarded as best practice that Investigating Officers (who have already been in contact with witnesses) arrange consultations and ensure the proper care and treatment of victims and witnesses in the lead up to logistical arrangements of, and post consultation issues. In considering the matter of consultations it needs to be made clear that there is a distinction between pre-trial consultations, generally pre-direction stage, and generic consultations (including meeting victims) prior to the commencement of a trial and consultation on general matters concerning the conduct of the trial.

3.29 While some interested parties raised concern with Inspectors about the continuity of Counsel involved in prosecuting cases as they progress through the court system, it was apparent that the PPS had taken steps to address such concerns. Inspectors are aware of the now

common practice of appointing Counsel early to some high profile cases, and insofar as possible, ensuring continuity of Counsel with appointments from the time of arraignment and through trial. Of course, this is not always possible given unknown circumstances at the time of appointment, but Inspectors are satisfied that the direction of changes made are positive and should be allowed further time to 'bed down'. It is also relevant to highlight here that in the CJI report of July 2010 on sexual violence and abuse<sup>16</sup> Inspectors found good continuity of Counsel.

3.30 However, while some victims reported having been treated with all due respect and sensitivity, others felt that insufficient time and explanations had been given to them. Inspectors heard from victims who, at trial, were left feeling tangential to the entire process with Counsel often reminding them that they did not act on their behalf and failing to keep them informed about what was happening during the conduct of that trial. It is important that Prosecutors recognise the stress and anxiety that victims and witnesses often experience in the court setting, and that sufficient awareness training is provided, and time taken during consultations to fully explain systems, procedures and decisions. Inspectors have been advised that the PPS offer comprehensive training for their Prosecutors together with a series of specific subject training courses. Such training has included, for example, autism awareness, sexualised trauma and domestic violence. Inspectors were advised by PPS staff there is a panel of barristers it employs to prosecute. This specific training is also offered to panel Counsel employed by the PPS, and in both the case of Prosecutors and panel Counsel, this training counts towards the Northern Ireland continuous professional development schemes. Inspectors found that Prosecutors spoken to demonstrated appropriate awareness of the

<sup>16</sup> Sexual Violence and Abuse, a thematic inspection of the handling of sexual violence and abuse cases by the Criminal Justice System in Northern Ireland, CJI, July 2010.



need to deal sensitively with victims and witnesses. However, this was balanced against a clearly and often stated absence of time and resources to deliver the kind of personal service often required. Having consulted with senior PPS staff, Inspectors acknowledge that the PPS are sensitive to the need for ongoing training amongst its staff and Counsel.

3.31 Bearing in mind that Counsel are not specially trained to deal with victims and witnesses, there can be a wide spectrum of ability and experience in this area. Counsel with particular skills, knowledge and experience can be utilised from the panel and were considered appropriate to the circumstances of particular cases or types of cases. Some Counsel, for example, are regularly used to prosecute sexual offences cases because of their knowledge and expertise. Taking account of these matters and the absence of formalised training specific to the treatment of victims and witnesses, **Inspectors recommend that the PPS incorporate dedicated training on the care and treatment of victims and witnesses as part of its system of continuous professional development.** The PPS should consider utilising VSNI to deliver elements of continuous professional development for all Prosecutors and panel Counsel.

3.32 In addition, one third sector children's group referred Inspectors to the fact that **Prosecuting Counsel are not AccessNI checked. This is a matter which Inspectors recommend should be addressed by the PPS in employing Counsel for sensitive cases and those involving children.**

3.33 In CJI's July 2007 baseline inspection of the PPS, Inspectors then commented that Prosecutors were unclear on the circumstances when it would be appropriate to meet the victim formally and would benefit from the issuing of specific guidance to ensure consistency. In the follow-up in

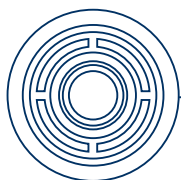
June 2009, it was found that the PPS had re-issued guidance, but there seemed to be a patchy awareness of this as some Prosecutors indicated that consultations were not regulated. Consultations can be beneficial where a Prosecutor/Counsel might wish to:

- test the evidence of a witness, (Inspectors made recommendations regarding consultations in the July 2010 report on sexual violence);
- explain to victims and witnesses the process of the prosecution and provide factual information in answer to their concerns; and
- seek views on particular aspects of proceedings (for example, bail, special measures, impact statements and so on).

3.34 Inspectors requested, and were provided with instructions to Counsel who act on behalf of the PPS (most commonly in Crown Court matters), and it is clear that the generic instructions issued to such Counsel include, amongst other matters, the following relevant to victims and witnesses:

- Counsel must have regard to and apply the published policies of the Director;
- Counsel must comply with the Code for Prosecutors, including the Code of Ethics;
- Counsel is reminded that in dealing with witnesses, particularly those who are young and/or vulnerable; and
- Counsel must have regard to the Director's policy on victims and witnesses.

3.35 Inspectors consider that there remains a worrying undercurrent of concern for victims and witnesses regarding the engagement of Prosecutors and Counsel, both before and during trials. However, it needs to be made clear that there is a distinction between PPS Prosecutors and Counsel employed by the PPS to prosecute cases, largely in the Crown Courts. Inspectors heard mixed feedback in respect



of both, but the mainstay of concern surrounded those most serious cases in the higher courts prosecuted by panel Counsel.

- 3.36 These were matters Inspectors commented on in the 2007 baseline inspection and 2009 follow-up review of the PPS. Inspectors restate the following comments from the 2009 follow-up review:

**implement a quality assurance scheme on advocacy skills with specific emphasis on the nature and quality of Counsels engagement with victims and witnesses and taking into account developments in England and Wales.** *Inspectors understand that high court advocacy project was scheduled to be piloted in early 2011. There has also been some discussion within the PPS around the feasibility*


Issue	Findings from the follow-up inspection
The Management Board should ensure that there is a structured system for monitoring the quality of Crown Court advocacy so that the PPS can be satisfied that they are obtaining objective and reliable information about the performance of Counsel which is shared across the regional offices.	<p>Whilst Counsel had to set out their competences for consideration by the PPS in the exercise to select Counsel for the Counsel Panels, there is no structured monitoring of Counsel on an ongoing basis.</p> <p>This is particularly important with the inclusion of new Counsel on the Junior Panel.</p> <p>Now that the advocacy standards are agreed, we would expect this issue to be taken forward promptly.</p>

- 3.37 Similar issues have been highlighted by Inspectors in the report on the 'Use of Legal Services by the criminal justice system' (published June 2011). This report stated: *'Some work has been done on assessing the quality of Counsel in other jurisdictions. For example, the Crown Prosecution Service Inspectorate examined the quality of advocacy in courts in England and Wales, though the resources required were extensive and the Inspectorate's own resources had to be supplemented by the use of associate inspectors. The Legal Service Commission in England and Wales was also seeking to develop a methodology for assessing the quality of defence advocates. The Crown Prosecution Service in England and Wales has also utilised its own staff to gather information on prosecution Counsel in court, though this tends to be focused on issues such as timeliness, handling of relations with victims and witnesses and communication skills rather than case preparation and the basis of the legal argument. Some specialist assessors have also been engaged for the latter. Inspectors recommend that the PPS should*

*of using an independent assessor to help measure quality of Counsel in court.'*

## Appearance in court

- 3.38 It is widely accepted that giving evidence in an open court can be stressful. Many victims and witnesses feel strongly and emphasised in their contact with Inspectors, that the process of giving evidence was stressful. One victim commented that she had felt "manipulated" by the process, and this view was repeated often, albeit in different guises. PPS lawyers indicated that the anxiety of witnesses cannot be entirely allayed due to the adversarial nature of the criminal justice system and the need for defence lawyers to test the evidence when given by way of direct testimony. This latter point was under-scored by one defence practitioner spoken to who emphasised the right of defendants to test every aspect of the prosecution case. The test can be vigorous so as to ensure that an innocent person is not convicted. The forcefulness of cross-examination may be commented upon



by Prosecutors and this is a matter which is specifically addressed in the Code for Prosecutors.

3.39 Ultimately, the nature of cross-examination is controlled by the Judge; who can intervene if the cross-examination becomes inappropriate. This is another example of the apparent tensions within the criminal justice system which needs to be borne in mind by all concerned with, or interested in, the criminal justice system. It is not a matter that can, or should be interfered with or altered, except in the application of the PPS Code for Prosecutors or regarding Judicial intervention.

3.40 Reflecting the reported anxieties and concerns of witnesses there was a variation in views expressed to Inspectors about how victims and witnesses felt about going to court. Some explained that the period of time between giving statements and waiting to hear if anything was going to be done was particularly stressful, which impacted on their ability to “get on with their life”, “move on” and/or “get closure”. As in the 2005 inspection, CJI, once again heard from some victims that they had not been kept informed of all court dates and from some who first heard about court outcomes in the media or from neighbours. This might occur as a result of the defendant pleading guilty and no witnesses being needed, or the delay between the court hearing and its immediate reporting and any formal outcome letter emanating from the PPS. Inspectors are conscious of the PPS plans to develop IT solutions to the updating of victims and this is to be welcomed as forward looking and appropriate. In addition, other agencies have taken some steps in this direction with, for example, the NICTS providing a number of online services. This kind of ‘self-service’ model has many potential benefits, including the prospect of cost savings in the longer term and the benefits for victim access, on demand, when the need arises. However, while not wishing to stifle the positive steps

being taken by the PPS in this direction, and bearing in mind the concept of the ‘one stop shop’, Inspectors would advocate that this matter needs to be looked at in terms of a criminal justice system wide solution. **The Criminal Justice Board should implement technical solutions across the criminal justice system to update victims and witnesses about developments in their case including whether they need to attend court, the date, time and venue where the offence will be listed, and the eventual outcome of the hearing. This should be regarded as a ‘self-service’ facility in which victims and witnesses, using a unique reference can access information about their case from soon after first report until its disposal. Such a service should also signpost support services, where appropriate.** Inspectors wish to make clear that in terms of court attendance, this recommendation should not be in place of existing arrangements, but should be regarded as an enhancement to them.

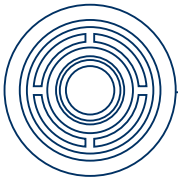
### Quality assurance

3.41 The PPS have recently established a Quality Assurance Unit and Inspectors have met with the Head of that unit. The unit reports to the Policy and Quality Sub-Committee established by the Management Board. Inspectors were provided with a comprehensive quality assurance action plan which sets out actions and progress in a number of areas.

3.42 Inspectors view the establishment of this unit as a significant positive step and were struck by the professionalism of staff and their determination to drive improvement. This kind of internal monitoring is good practice.

### Positive performance

3.43 Despite some of the matters highlighted in this report, Inspectors would wish to point



out that they found many areas of positive practice and performance in respect of the Prosecution Service. Notwithstanding the issues referred to earlier, there was a tangible expression of the desire and determination to provide the best possible service to victims and witnesses and this was apparent from management commitment, in policy, and in the various inter-agency working groups in which the PPS is represented. Indeed, overall just under seven-tenths (69.3%) of respondents to the 2010-11 NIVAWS reported they were satisfied with the information and services provided by the PPS. Further, during fieldwork there was evidence of positive comments heard by Inspectors. The latter included, for example:

- Commenting on the PPS one victim of a serious assault told Inspectors, *“Everything was well explained to me. Things I didn’t understand were made very clear to me. Very good manner and care and understanding which helped me a great deal.”*
- A victim of a serious sexual assault commenting on what went well in terms of contact with the PPS told Inspectors, *“The way they dealt with me in confidence. They were very understanding.”*
- Another sexual assault victim, again commenting on what was positive about the contact with PPS told Inspectors, *“[They] provided details about the changes, how the matter would progress through court and identified the possible outcomes the judge could consider.”*
- A victim of a serious traffic offence told Inspectors, *“[The] only contact necessary was letter advising us of dates we were required to give evidence, which was all we needed.”*
- A victim of an assault simply told Inspectors, *“They [PPS] were doing their job well.”*

## CHAPTER 4:

# Supporting victims and witnesses through the courts



### Introduction

- 4.1 For many victims and witnesses the experience of going to court can be most traumatic, particularly for those who have little experience of the justice system. Concerns over not being believed, as well as being cross examined in the witness stand, add extra anxiety. The NICTS play a key role at this stage of the criminal justice journey for victims and witnesses, as well as support provided by the VCS.

### NICTS policy and procedures

- 4.2 The main role of the NICTS is to provide for the administration of justice by facilitating the conduct of business in the Supreme Court, Crown Court, County Courts, Magistrates' Courts and Coroners' Courts. The strategic aim set out by the NICTS in its Corporate Plan (2008-11) is '*serving the community through the administration of justice*'.
- 4.3 The organisational aims of the NICTS are supported by four further aims, which are:
- delivering responsive customer services - the NICTS will deliver quality services which meet the needs of its customers;
  - improving access to justice - the NICTS will work to make the justice system more accessible;
  - promoting confidence in the justice system – the NICTS will work to promote confidence in the justice system; and
  - supporting an independent Judiciary - the NICTS will support the Judiciary by

providing it with a consistently high quality service.

- 4.4 Following on from the 2005 CJI inspection report, the NICTS developed its own separate victims and witnesses policy. This sets out some of the standards of service it aims to provide for witnesses which include:

- reception desks, information points and public counters where you can ask for information;
- separate waiting rooms in all main court venues for all vulnerable and intimidated witnesses;
- an opportunity to visit the courthouse and view facilities before you come to give evidence;
- information leaflet about the courthouse you are to attend; and
- child witness room available in all main court venues.

- 4.5 The NICTS policy on victims and witnesses sets out a summary of what those who have to attend court can expect. This states:

#### Before court:

- Opportunity to visit the courthouse and view facilities before you come to give evidence;
- contact information for voluntary agencies and support services;
- information about the court building in which the case will be heard;
- information about who's who in the courtroom; and
- information about the court process.





### At court

- Separate waiting rooms on request;
- information about progress on the day, waiting time;
- courteous and sensitive treatment by court staff;
- reduction in unnecessary formality in the court;
- use of interpreters if necessary;
- explanation of process; and
- clean, comfortable waiting rooms and refreshment facilities.

### Post court:

- Information about the verdict and sentence (subject to any legislative restrictions);
- use of an interpreter to explain results after court hearing; and
- opportunity to provide feedback on process.

4.6 Inspectors learned there are references to services for victims and witnesses in the NICTS Business Plan (2010-11). However, there are no specific performance targets set in respect of victims and witnesses. It was emphasised that service improvement is a high priority for the NICTS and the strategic 'customer service' aims apply to all users.

4.7 In respect of the NICTS commitments in its victims and witnesses policy, it is not clear in many of these areas whose responsibility it is to provide the service or how it is to be accessed and given effect. Again, as highlighted elsewhere in this report, there is confusion amongst the criminal justice system agencies, and hence confusion for victims and witnesses. For example, the NICTS policy on victims and witnesses, among other matters, sets out how victims and witnesses can receive an explanation of court processes, but it is not clear how, who or when this could be delivered or accessed. Such matters should be addressed by a business process map to which there should be added clear lines of responsibility

(including, where appropriate, joint responsibilities) and this should ultimately be the basis upon which other criminal justice system documents and policies should be based. Specific comment in respect of this is made by Inspectors in Chapter 6. However, **specifically for the NICTS, Inspectors recommend that the various responsibilities and how they will be delivered should be added to its victims and witnesses policy in its next revision.**

### Attending court

4.8 Clearly, victims and witnesses who provide a statement to the police in connection with a crime may ultimately be called to give evidence in court.

4.9 The nature of the concerns of witnesses who attend court, are reflected in the 2010-11 NIVAWS. The most frequently identified concerns of respondents who had been asked to attend court to give evidence were:


- 47% of respondents mentioned *coming into contact with the defendant (and/or their supporters)*;
- 41% mentioned *'intimidating behaviour of the defendant or his/her supporters'*;
- 31% mentioned *'not knowing enough about the court environment'*; and
- 32% mentioned *'being cross-examined'*.

4.10 By way of further illustration of the victim's concerns, one told Inspectors, *"On the day of the court I felt like the criminal not the victim."* This was an often repeated sentiment expressed by many victims.

4.11 Giving evidence in court is widely accepted as a particularly stressful experience for most lay witnesses, bearing in mind the combination of unfamiliarity and the adversarial system of justice. Data from the 2010-11 NIVAWS<sup>17</sup> indicates, for example that 22% of respondents were dissatisfied

<sup>17</sup> Performance of the criminal justice system from a victim and witness perspective: comparison of findings from the 2008-09, 2009-10 and 2010-11 surveys.





with their experience at court overall. This is up (3%) from the previous 2009-10 survey which stood at 19%, while the 2008-09 survey figure was 28%.

4.12 Arising from the 2009-10 survey, by far the largest proportion of those who stated they felt intimidated at any point in the process cited the defendant (76%) and family/friends of the defendant (31%) as the source. In balance, Inspectors would point to the following further findings:

- 83% of respondents stated they felt safe when they were in the courtroom;
- 17% of respondents stated that the intimidation took place at the court building but outside the courtroom;
- 9% reported intimidation inside the courtroom; and
- 85% of respondents stated the intimidation took place outside the court/in the community.

This seems to indicate that the most concerning area with regard to intimidation happens in the community, and hence is a matter for police to address.

4.13 As a wider part of its customer service commitment, the NICTS provides a number of public information leaflets, some of which impact on victims and witnesses, including:

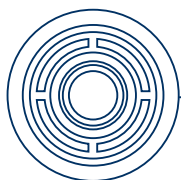
- the work of the Courts Service;
- who's who in the courtroom;
- countering intimidation (as mentioned above);
- court etiquette;
- the juror;
- the defendant; and
- Youth Court.

4.14 This type of information is important as many people do not know what to expect when they come to court and their emotions can range from mild apprehension to outright fear. Inspectors found that much of the information available to victims and witnesses was also signposted on the

NICTS website. This enabled victims and witnesses to view documents such as:

- attending as a witness in court;
- the generic (DoJ sponsored) information for victims of crime leaflet;
- complaints mechanisms;
- the NICTS customer service standards;
- the NICTS victims and witnesses policy; and
- a link to the interactive 'virtual walk-through'.

4.15 Inspectors also noted the victims leaflet was available electronically in a number of different languages. The principle NICTS booklet is delivered to all witnesses via the PPS accompanying witness notice to attend court documents. This booklet signposts the various victim and witness services available and provides contact details for all court buildings. However, it was not clear how many of the other information leaflets would be delivered to those who needed them. Much of the information available was only accessible if victims asked for this (via reception desks) or looked themselves on the NICTS and/or other websites. However, Inspectors recognise there is an important balance to be struck between providing sufficient and relevant information to victims and witnesses and becoming overbearing. Inspectors heard, for example from many victims who, having received an over-abundance of leaflets from different organisations simply ignored these. Given that victims receive information from the PSNI and VSNI in the first instance, and from the PPS if a case is proceeding to prosecution, the approach by the NICTS may be regarded in some quarters as proportionate. On the other hand, Inspectors felt that more could be done to draw the attention of victims and witnesses to the help and support available. An over-reliance on electronic media and/or other agencies notifying the NICTS of particular needs or vulnerabilities may leave significant gaps, especially for disadvantaged groups. These are matters which may usefully be



linked to witness needs assessments and the development of Witness Care Units discussed elsewhere in this report. The NICTS, and in particular CPOs should have a clear role in the joint work of WCUs.

- 4.16 Once the PPS take the decision to prosecute an individual for a criminal offence the case is prepared for hearing at the Magistrates' Court. The procedures vary in individual courts, but generally the first time the case is before a District Judge the defendant will be asked to enter a plea. If the plea is guilty then the case will be heard without the necessity to call the Investigating Police Officer or other witnesses to the offence.
- 4.17 If the plea is one of not guilty the case will be adjourned, usually for two to four weeks to allow the prosecution and defence time to ascertain the availability of the relevant witnesses to attend and give evidence at the contested trial. At the subsequent hearing the parties should be in a position to confirm witness availability and any other issues which would impact on the timing of the hearing of the contested case. The case is then listed for hearing, depending on the nature and complexity of the case, either at a future date in the court schedule, or on a special day set aside to hear a number of contested cases.
- 4.18 If the matter is more serious and one to be heard in the Crown Court then a preliminary hearing (preliminary enquiry) will be held in the Magistrates' Court to establish whether there is a 'prima facie' (on the face of it) case to answer and, if so, committal (transfer) of the case to the Crown Court. On transfer of the case to the Crown Court similar procedures regarding listing and case progression apply. It is relevant to highlight at this point that it is the responsibility of the Judiciary to list and manage cases in the courts, and the decisions taken by Judges are matters which CJI do not comment upon.

## Court administration and delay

- 4.19 Currently in Northern Ireland and for the last quarter of 2010 (October - December) the following represents average times for the progress of cases:

Court	Measure	Performance
Crown Court	Committal to hearing	118 days (16.8 weeks)
Magistrates' Court	First hearing to disposal	49 days (seven weeks)
Youth Court	First hearing to disposal	77 days (11 weeks)

- 4.20 The NICTS and the PPS have been working together to roll out judicial listing in the Magistrates' Courts to enhance procedures and build on the case management protocol developed by District Judges. In the courts where this is currently in operation, following a not guilty plea, the prosecution and defence are given a set time to ascertain the availability of their respective witnesses and to provide this information to the NICTS, who administratively set a date for the contest to take place, and this is confirmed in court by the District Judge. This administrative support to the judicial listing procedure is aimed at making the court more efficient as the prosecution and defence do not have to debate the suitability of future contest dates in an open court, and the court staff do not have to provide alternative available contest slots to enable the District Judge to fix a date for contest on the day of the court. The PPS are eager to see this initiative, first introduced by them, further extended to the benefit of victims and witnesses.
- 4.21 Administrative support to judicial listing is also aimed at reducing the number of review hearings, streamline the court process and also has the potential to allow police to be informed earlier of when an Officer will be required for a contest.



4.22 In addition, case progression officials across the criminal justice system (including in the PPS, the PSNI, the YJA and the PBNI) have been assigned to address issues such as:

- checking the availability of witnesses;
- managing the arrangements for special measures;
- monitoring disclosure applications;
- ensuring that courtroom technology and interpreter facilities are available; and
- monitoring the completion of specialist reports.

For its part, the NICTS have appointed CPOs (15 in total) to work with other case progression officials and the Judiciary to minimise delay in the criminal courts.

4.23 The CPOs keep the court informed on progress. They are also responsible for monitoring and reporting on performance against targets, identifying potentially problematic cases, analysing caseloads and ensuring management information is timely and accurate. CPOs provide support to all seven Crown Courts and 21 Magistrates' Courts in Northern Ireland.

4.24 The NICTS has conducted an evaluation on the role of CPOs, and reported that statistical comparison of performance against targets during the period April 2007 – March 2010 indicates sustained improvements across many areas in the Magistrates' Courts with, for example, reductions in average waiting times recorded in six out of seven court divisions. In respect of Crown Court business the 'committal to arraignment' target has been consistently exceeded in six out of seven court divisions, and there has been notable improvement in overall performance for 'committal to first hearing'. The evaluation also noted however, that a common inter-agency approach to case progression has yet to be achieved and more work is needed to determine the best collective approach to support judicial case management. Inspectors note that the

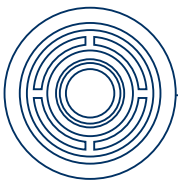
targets referred to here are Judicial targets.

4.25 Despite the steps taken to deal with administrative listing there remains very significant concern among victims and witnesses regarding delays in case progression. This was one of the single most common and unforgiving concerns heard by Inspectors during the course of liaison with victims and their representatives. The issue was said to lead to further and unnecessary distress and an inability to move on.

4.26 While these matters may be regarded as being dealt with in the overall context of the CJI report on delay, some further consideration of these issues follows post. In addition, Inspectors point to their recommendation at paragraph 4.39 which deals with the placing of case progression on a statutory footing.

4.27 There is a clear link with the Inspectors findings in respect of their work in this inspection, and the CJI report in respect of avoidable delay. The latter stated, *'The negative impact of avoidable delay can be severe for victims and witnesses and can undermine the quality of justice. It is known that the quality of evidence declines with time, which can put victims and witnesses under additional pressure in court. This can also undermine confidence in the justice system and contribute to a reluctance to report crime or act as a future witness. There is also the more personal negative impact of avoidable delay.'*

4.28 Inspectors consulted with a wide range of stakeholders and interested parties as part of this report process. It was clear the experiences of many victims were broadly similar – a deep frustration with the system due to the number of adjournments which included, for example, the non-attendance of the defendant and the Prosecutor not ready to present evidence in contested hearings. These unnecessary attendances in court led to increased stress for the victim, additional costs of travel, taking time off work and the



deep frustration of waiting around court. As Inspectors noted in their recent report, 'Securing Attendance at Court' in respect of a pilot analysis of adjournment reasons in Londonderry/Derry that *'...provisional data of adjournment reasons February to December 2010 in the Magistrates' Court, 59% of contests listed did not proceed...the prosecution accounted for 45% of all adjournments on the day of contest...the defence accounted for 36%.'*

*witnesses will not show up, which means the case will then collapse. And defence solicitors find it is in their interests as they are being funded by legal aid for case preparation. If defendants are holding out to see if witnesses turn up, that is not justice; it is a publicly funded waiting game. It is an abuse of the system, and puts an intolerable pressure on victims and witnesses that could be called a form of witness intimidation.'*

- 4.29 Inspectors heard concerns from victims which included one woman whose son had been the subject of an assault. She learned from the PPS in a letter that the case could not be proceeded with because the file had become statute barred. In other words, it was outside the statutory time limit for prosecution. Again, the issue was referred to in the recent CJI report on avoidable delay which found that in a one year period up until the end of 2009, 467 such cases had become statute barred. While this is a matter principally for police and to a lesser extent the PPS to address, it is relevant here as an illustration of the often unseen consequence and issue in terms of the overall context of delay.
- 4.30 Inspectors also heard concerns about the issue of late guilty pleas as impacting negatively on victims and witnesses, in particular about this being used as a tactic by defendants who played the waiting game to see if witnesses had the stamina and determination to appear. Victims and witnesses will very often be at court waiting to give evidence, having prepared themselves (and their families) for the often nerve-wrecking experience, to then be told they are not required as a plea has been entered. This, together with cases where no evidence is offered by the prosecution, are described as a 'cracked' trial.
- 4.31 By way of additional commentary on this issue the Victims' Commissioner Ms Casey has stated, *'Time and again, I have been told that defendants hold off pleading guilty until the day of the trial in the hope that victims and*

- 4.32 The picture in Northern Ireland seems to be similar and Inspectors learned, for example, that legal aid is paid on the basis that if a case is even part heard then a higher fee is payable. That in itself does nothing to encourage an early guilty plea. Neither is there a clear system of encouraging early pleas. Inspectors understand that the overall number of guilty pleas in Northern Ireland is roughly analogous to that in Great Britain. However, in Northern Ireland these pleas appear to come much later in the process (rather than at first appearance) and this can be a significant factor in delay.
- 4.33 In terms of the number of 'cracked' trials in Northern Ireland - by which is meant those that do not proceed because of a guilty plea or the withdrawal of the case at trial, this is not routinely measured in performance data and indeed Inspectors noted in their follow-up review of the PPS in June 2009 that, *'File examination indicated the reasons for ineffective trials were not always endorsed on files.'* However, available data for 2010-11 supplied by the NICTS shows that 28% of trials in the Crown Court are 'cracked'. In 2010-11, out of 1,264 Crown Court trials where the defendant pleaded not guilty, 354 resulted in a 'cracked' trial. This figure is more pronounced in the adult Magistrates' Courts where 38% of cases are 'cracked'.
- 4.34 While direct comparisons are not possible for a number of reasons, this latter data seems to be broadly in keeping with statistics from England and Wales where in





2007-08 42% of Crown Court trials were described as ‘cracked’.

- 4.35 However, there appears to be a very large disparity concerning ‘ineffective’ trials (i.e. those where there are adjournments). In this case the figures in England and Wales are 18% for Magistrates’ Court cases, whereas in Northern Ireland the figure is closer to 36%.
- 4.36 While exact cost figures for Northern Ireland are unavailable, using the same approximate figures as those used by the Victims’ Commissioner for England and Wales that preparation for a Crown Court trial costs the Crown Prosecution Service alone some £2,200, then the notional costs in Northern Ireland would be 354 x £2,200 totalling £778,800. This does not take account of police costs, witness costs and more importantly the emotional costs to victims and witnesses. Magistrates’ Court data shows that in 2010-11 some 13,245 trials were ‘cracked’. The costs of preparation in the Magistrates’ Courts are significantly less and Inspectors have calculated, preparation costs in the Magistrates’ Courts at one quarter of that in the Crown Court, at £550. The costs of ‘cracked’ trials in the Magistrates’ Courts are thus some £7.28m. Added to the costs of cracked trials in the Crown Courts the annual costs are in the region of £8.06m. Consequently, if for example, the number of ‘cracked’ trials were to be halved then the saving to the public purse could be in excess of £4m per annum. It was clear to Inspectors that exact costs either for ‘cracked’ or ‘ineffective’ trials are not available, and hence the real costs and impacts are also unknown. It occurs that there are also many factors and cross-agency issues involved, meaning that indicative costs here may not be pinpointing all relevant factors. In addressing this issue, **the DoJ should consider how it can measure the costs and issues arising in ‘cracked’ and ‘ineffective’ trials highlighting where costs can be saved**

**and outcomes for victims and witnesses improved.**

- 4.37 **In terms of delay Inspectors point to the recommendations made in their report ‘Avoidable Delay’ (published June 2010) and repeat those recommendations insofar as they remain vital to improving the experiences of victims and witnesses.**
- 4.38 Inspectors also found there is limited prior consultation with the defence to find out if there is to be any pre-trial submissions. The PPS however indicated that in the Crown Court both parties complete a ‘Trial Status Report Form’ detailing issues that may affect case progress. Inspectors heard issues of concern regarding the agreeing of witnesses with the defence. It appeared to Inspectors that this was a practice which had no clear structure or regulation. This depended largely on particular Prosecutors and Counsels’ willingness to pursue and agree witnesses. Many (mainly police) witnesses lamented the fact that they were brought to court unnecessarily to prove matters which were not contentious. Indeed, Inspectors heard of the practice of some defence legal representatives calling police/police staff and other non-contentious witnesses regardless of the import of their evidence. Notwithstanding, it was also made clear to Inspectors that the defendant was entitled to ‘...put the prosecution on their proofs.’
- 4.39 Inspectors are conscious that the Lord Chief Justice has issued a practice direction touching on issues such as the listing of trials, the agreement of non-essential witnesses and witness availability. This is included at Appendix 3.
- 4.40 Inspectors also learned that in England and Wales, there are systems designed to ensure that witnesses can be agreed, where possible, and incentives/sanctions can be applied. For example, the Criminal Procedure Rules 2010 set out, among a number of other relevant matters:



- the early identification of the real issues;
- the early identification of the needs of witnesses; and
- achieving certainty as to what must be done, by whom, and when, in particular by the early setting of a timetable for the progress of the case.

The Criminal Procedure Rules 2010 further set out that if a party fails to comply with a rule or direction, the court may:

- fix, postpone, bring forward, extend, cancel or adjourn a hearing;
- exercise its powers to make a costs order; and
- impose such other sanction as may be appropriate.

4.41 It therefore appears to Inspectors that a similar set of rules will assist all parties in ensuring a common set of principles by which the issues, including those of delay, can be best addressed. **Inspectors recommend that case management is placed on a statutory footing with timescales, sanctions and incentives designed to deliver the most efficient and effective case progression. The DoJ should ensure the issue is included in their strategic action plans and progressed by 31 May 2012.** Among the benefits of a statutory scheme are:

- openness;
- transparency; and
- greater consistency.

## Court experiences

4.42 As part of the inspection process, Inspectors spoke with a sample of CPOs and also visited a number of court venues and spoke with Resource™ staff (who are employed to deliver court interface and security on behalf of the NICTS). Inspectors also heard from a number of victims/witnesses in courts and how Resource™ staff had responded admirably to their needs. In discussions with the Resource™ staff,

Inspectors were impressed with their commitment to customer care, and particularly in alerting court staff to any needed action, as they are the main interface with the public arriving or waiting at court venues. Court staff rely upon them to spot any potential problems including any distressed or anxious witnesses that may need help. The Resource™ staff also assisted VSNi's court witness staff and volunteers when they identify witnesses who have not been directed to the witness waiting areas.


4.43 The Resource™ staff undergo specific training to NVQ level in customer care and Inspectors saw this as positive and further evidence of the NICTS and Resource™ staffs commitment to good customer service experiences and practice.

4.44 Nonetheless, Inspectors were also struck by how such positive services could suffer where courts were particularly busy, as they often are. This meant that the kind of customer care that Resource™ staff were keen to deliver depended on witnesses self-identifying their position and needs. While Inspectors are aware that court posters are available signposting witnesses and others as to the services they may access and the support available, the prominence of such posters and information could usefully be reviewed with the aim of ensuring that the attention of all persons entering a court are immediately drawn to it. This could be achieved simply, effectively and economically by the use of portable 'sandwich boards' placed at the entrances to court venues.

4.45 During the course of their visits to courts, Inspectors noted a lack of prominent information available in alternative languages. Again, this could usefully be incorporated as part of a review of the provision of information.

4.46 While it is clear the NICTS aims to make the occurrence of going to court as comfortable an experience as possible, it was apparent to Inspectors that the





standard of facilities can fluctuate depending on the age, design and structure of the court buildings, and also the volume and type of business being conducted at each venue at any given time. It must be said that, in general, Inspectors were content that the court buildings they visited offered a reasonably good standard of accommodation and were clean. Moreover, there was a clear sense of determination on the part of staff to adapt to any reasonable needs brought to their attention in sufficient time. However, without any structured way of identifying or filtering witnesses in need of additional support or assistance, there will inevitably be those who fall through these gaps. Clearly, and for obvious reasons, recently built facilities stood out as offering largely fitting standards. For similarly obvious reasons older buildings such as that in Enniskillen are challenging and the accommodation there does not lend itself to positive customer care and the conduct of modern court business. Inspectors heard, for example, that often solicitors and Counsel were consulting with their clients in the street outside the courthouse because of a lack of facilities.

venues visited informed Inspectors that if they receive notice from the other agencies that a user who may have specific needs is coming to court, they can normally make appropriate arrangements to facilitate their attendance and comfort. Once again, new court buildings such as Dungannon and the Belfast Combined Court Centre at Lagside, have superior facilities for all court users including ramps, lifts, disabled toilets, induction loops and low level counters. However, as in the 2005 inspection, some interested parties raised concerns about the newer courthouses, for example, the location and size of witness service accommodation at various venues, but particularly at Lagside. This was mainly due to the volume of business and, on occasion, the high number of victims/witnesses; leading to a lack of space available for witness comfort and consultation. The family of one victim told Inspectors, *“In [named] courthouse the families of the accused blocked our way to get back to our child who was the victim and was upstairs in a separate room and were very physically intimidating. It took an hour for the court staff to remove them.”*

4.47 Further examples of the varied facilities were apparent in terms of disabled amenities. This was the case, for example, in Omagh where a lift to allow access to the second floor, while planned, had been delayed due to a number of factors. Indeed Inspectors also heard concerns regarding the ability of victims and witnesses to hear proceedings in some courts, and especially for victims’ families who attend Crown Court trials in Lagside critical comment was made regarding the acoustics in these courts. While Inspectors acknowledge this may be a failure of legal practitioners to use microphones, rather than a lack of equipment, it also needs to be recognised that this can be a significant further hurdle for grieving families at a very difficult time and requires attention from the NICTS.

4.49 While facilities can be extremely pressured and this impacts on the experience and service available to victims and witnesses, some of this pressure is nonetheless avoidable (as Inspectors noted in respect of one Coroners’ Court discussed below).

4.50 A number of interested parties advised Inspectors that vulnerable victims and witnesses, or those with specific needs, are not always identified early enough in the process by partners to enable best use to be made of facilities. Once again, court staff at all levels referred to their willingness to provide bespoke support where they were advised in advance. However, other than through a formal legal special measures application, there is no formal method of the court being informed of victims and witnesses specific needs prior to court attendance. In England and Wales the WCU

4.48 Despite the concerns noted, staff at all




conducts an initial needs assessment, and later a further needs assessment, and makes suitable arrangements with all concerned for the proper care and treatment of all witnesses. As discussed earlier, while the PPS CLTs do so for Magistrates' Court cases, the onus remains in practice with the PSNI for all cases in the higher courts.

## Coroners' Courts

- 4.51 Given comments in their 2005 report regarding the absence of support on the day of inquests for witnesses attending the Belfast Coroner's Court, as located in the Old Town Hall, Inspectors again visited this facility during the course of this inspection. They witnessed a Coroner's Court where an inquest was being held alongside a family court in one small area of a much larger building. Witnesses for these courts were densely packed into a small corner with dozens of others (including legal representatives, defendants, other witnesses and so on) while other courts and sections of the building were completely empty. The experience for a bereaved family in such circumstances would not be conducive to good customer care. With a little foresight and planning, the listing of inquests in particular should take account of the other circumstances in which they take place. This was something which was specifically highlighted in the 2005 report and Inspectors were disappointed to see these circumstances being repeated some five years on. However, putting this matter in balance, Inspectors point out that in their 2009 inspection of the Coroner's Service Northern Ireland that there had been '*significant improvement*' in the service offered to bereaved families.

## Witness phasing

- 4.52 Inspectors heard that the NICTS, in conjunction with other agencies of the criminal justice system, are working to reduce delays for witnesses at court. Principally, the NICTS has initiated a pilot scheme which has as one of its objectives '*to reduce delay in waiting times for victims and witnesses*'.
- 4.53 This has commenced in one of Belfast's Magistrates' Courts and in Newtownards, Downpatrick and Bangor Magistrates' Courts. This pilot involves listing some cases for 12 noon, and it asks the legal representatives to ensure all steps have been taken before the hearing to allow cases to proceed on their allocated day.
- 4.54 Inspectors were also informed that there is currently no formal mechanism to plan or schedule victim and witness appearances, albeit that the above scheme is being considered and led by the NICTS. While Inspectors understand that some localised arrangements exist, for example, the use of mobile phone numbers, so that witnesses can be informed to come back to court at a certain time, these have operated informally in the Limavady area and feedback suggests this seemed to work well. The issue is also on the DoJ strategic action plan as a pilot and Inspectors would encourage all concerned to ensure that this action is pursued and evaluated in due course.
- 4.55 However, in general, there is also no monitoring of witness waiting times, and the NICTS expects whoever asked the witnesses to attend court to look after them in conjunction with voluntary bodies such as the VSNI/NSPCC who run the witness schemes. In addition, Inspectors consider that the resources allocated by the criminal justice system agencies to assist victims and witnesses at court and to provide an enhanced service needs to be considered further. This will especially be the case in some courts where large numbers of cases are regularly listed. Inspectors may well return to these issues in future reports.
- 4.56 Some NICTS and PPS staff indicated that court dates can be '*fixed blind*' without reference to witness availability; cases can



also be transferred from one court venue to another without consultation with victims and witnesses. However, as noted at paragraph 4.39 it is understood that this matter is being addressed by the issue of a Practice Direction by the Lord Chief Justice (see Appendix 3).

4.57 Most professional staff spoken to advised Inspectors that efforts were made, insofar as possible, to conduct a form of ‘witness timetabling’ for both expert and non-expert witnesses to ensure that their attendance at court was managed and their waiting time minimised. However, this very much depended on the efforts made by both defence and prosecution representatives involved in various trials. As a result, it is clear that while Prosecutors and Counsel did try to do their best, they are working within a system which is primarily designed to address other issues and performance indicators, as opposed to the needs and concerns of witnesses. Of course, there is a difficult balance to be achieved, but much more could be done to address the wasted time both for expert witnesses and ordinary members of the public alike. Inspectors point to more active case administration/progression, with procedures for the agreement of witnesses, scheduling their attendance and ensuring that matters at issue are addressed well in advance of trials. This includes action on ineffective and ‘cracked’ trials which have a negative impact on victims and witnesses.

4.58 However, the PSNI, the PPS and the NICTS should ensure there is a clear case management trail and closer collaborative working to demonstrate that victims’ and witnesses’ needs are to the forefront of case planning, especially when administrative support to listing and other related matters are being considered. One of the ways this can be impacted is in the establishment of WCUs discussed in this report.

## Bail

4.59 While the general position is that victims should be informed of bail decisions, usually by the police (and the PSNI policy reflects this), the practice seems to be somewhat different. Inspectors heard from a number of victims that they had not been consulted or advised of defendants release on bail, or of bail conditions. The experience of victims in this regard is varied and is dependant upon the Investigating Officer keeping them updated. There may be occasions where police Investigating Officers are not in court when decisions regarding bail are made, and these Officers are then left in the position of having to find out the facts before reporting back to victims. This may be some days later or not at all, dependant on the duties and attentiveness of individual Officers. While the NICTS provide the results of bail hearings to other criminal justice system agencies via the Causeway interface, current working practices do not adequately support Officers and the engagement with victims in this regard. Inspectors are aware that the Northern Ireland Law Commission have commenced a consultation in the area of bail and that this considers victim issues. Among the questions posed in the consultation is whether there should be a duty to provide information to victims in any new bail legislation, whether the provision of information should apply to certain categories of cases and whether indeed a non-statutory route should be taken. Secondly, if a non-statutory route is to be taken on the provision of information to victims, the best alternative mechanism is to ensure compliance in practice. The consultation ended in January 2011 with a final report and draft legislation awaited. It would therefore be inappropriate for Inspectors to comment further in this regard, and influence the outcome of this public consultation, except to say, that Inspectors would urge the PSNI and the PPS to ensure that victims issues are given appropriate consideration, in practice, in the



granting of bail and until such time as the Law Commission's final report and draft legislation are published.

- 4.60 The PPS policy on victims and witnesses expressly indicates that the views of victims are an important factor in the PPS's attitude to bail, while the decision is one for the court. In practice, there are no mechanisms for direct contact with victims in these circumstances and the PPS rely on the Investigating Officer to obtain the views of victims or more rarely to arrange consultations. Prosecutors informed Inspectors that there are no formal systems or internal directions for the PPS to inform victims of bail decisions. Once again, the PPS rely on police to ensure victims are updated in respect of such matters and pointed out, given the volume and timing of bail applications, it would be very difficult for the PPS to manage such a system. While the reliance remains on the PSNI it is important, particularly in cases where a defendant is first remanded in custody and then given bail, that victims (and witnesses who may be considered at risk) are informed of the release and relevant bail conditions as soon as possible. While the practice in Northern Ireland is generally in line with that in England and Wales and set out in the Code of Practice for Victims of Crime, it cannot be regarded as fitting that the information provided to victims in matters regarding bail is left to chance. **Systems must be agreed and put in place (supported by the PSNI, the PPS and the NICTS) to support operational Police Officers and ultimately victims in providing timely and accurate information with regard to bail, starting with the most serious cases. However, in view of the Law Commission's expected report Inspectors make this a conditional recommendation.**


## Special measures

- 4.61 Special measures are statutory provisions to

assist vulnerable and intimidated witnesses to give their best possible evidence in criminal proceedings. Special measures provisions were introduced in England and Wales by the Youth Justice and Criminal Evidence Act 1999 and in Northern Ireland in the Criminal Evidence (Northern Ireland) Order 1999. The specific subject of special measures are intended to be examined in detail by way of a forthcoming CJI thematic inspection. Hence, comment in this report is deliberately limited. However, some issues (discussed post) are worthy of early consideration.

- 4.62 The PPS is dependent on Police Officers for special measure referrals. Inspectors found that while specialist Officers were more aware of special measures, this was less than apparent among more junior and/or response Officers. This was backed up by feedback from both Prosecutors and Counsel spoken to during the course of this inspection. Victims and victims groups spoken to once again reflected this position. VSNI Witness Service staff informed Inspectors of perceived difficulties with special measures which were said not to be widely considered. This was said to be due to police inexperience at identifying special measures/needs, or that the prosecution are not 'promoting' them, anticipating that the court will not look favourably on such applications. In one particular case in the Belfast area a victim of domestic violence and sexual abuse was advised by prosecuting Counsel that special measures were really only for children and the jury would be more inclined to believe the victim if she were to give evidence in open court.
- 4.63 Further, Inspectors heard evidence from some VSNI Witness Survey volunteers of witnesses arriving at court for first hearings and who clearly could and should have been considered for special measures, not having had the issues discussed with them. In considering this issue Inspectors spoke with a range of legal professionals and one who worked both for defence and prosecution





confirmed that many of their legal colleagues saw benefit in having a witness in court and able to demonstrate the clear emotion of their situation. While Inspectors recognise that there is no clear evidence of volume or impact on outcomes, this is nevertheless concerning. The situation with regard to special measures needs to be kept under review and its importance recognised. Police Officers need to be aware of its uses and limitations and Prosecutors need to give due consideration and weight to their use where appropriate. The final decisions in respect of special measures are, of course, for the court.

- 4.64 Nonetheless, it was clear to Inspectors that reported difficulties with special measures and the early identification of potential vulnerable or intimidated witnesses was largely due to a lack of police awareness. This awareness also manifested itself in further difficulties with Police Officers providing victims and witnesses with an understanding that they would be provided with special measures, whereas this is clearly a decision for the court in very strictly defined circumstances. Inspectors noted that student officers are trained in special measures provisions and that all detectives receive more in depth training. However, there is a clear gap for those front line Officers who are beyond their probationary period and have never been trained in the application of special measures. Based on these findings, the understanding and familiarity with special measures needs to be more deeply embedded within the PSNI. **Inspectors recommend that all PSNI Officers likely to be engaged in dealing directly with crime victims are given awareness training in the application of special measures.**
- 4.65 In practice special measures are not being identified at the early stages and Officers do not have sufficient understanding of special measures to explain these appropriately to victims and witnesses. In addition,

Inspectors found that police reports to the PPS did not clearly highlight issues of victim and witness care, including the need for special measures or otherwise pointing out needs and vulnerabilities. **Inspectors recommend that the PSNI and the PPS work together to provide a clear and auditable system of information to support the best possible care and treatment of victims and witnesses. Specifically, this should entail clear tracking of victim and witness needs via the Causeway interface and be fully visible to all relevant agencies. This could include matters such as vulnerabilities; special needs; fears or concerns; special measures; the ‘victim contract’ and updates (as discussed in Chapter 2); and links to witness assessments and WCUs.**

The purpose should be to ensure that victim and witness needs are flagged early in the criminal justice process and taken into consideration in the various decisions which impact upon them.

- 4.66 It is worthwhile to note that some court venues are not suitable for special measures and this results in business being transferred to other venues. In other cases equipment has been transferred from one location to another. Inspectors heard from legal practitioners who expressed concern that there was a lack of widespread availability of technical equipment to facilitate some special measures. This included, for example, audio and visual equipment for the courtroom. Given the nature of society and the apparent increased availability of technology and its consequent application in criminal trials, **Inspectors would urge that the NICTS conduct a review of the holding and availability of such technical equipment across its estate with a view to achieving a balanced approach bearing in mind financial restrictions and the needs of stakeholders, including victims and witnesses.**





## Appeals

- 4.67 The Court of Appeal (Criminal Division) deals with appeals from the Crown Court. Although scheduled cases no longer exist, there remains a right of appeal under the Justice and Security Act 2007, whereas other cases must seek the leave of the court to appeal.
- 4.68 In terms of volumes, the number of appeals lodged in the Court of Appeal in 2008 was 78 compared with 47 in 2007. In 2008, 89% of criminal appeals dealt with were in respect of non-scheduled offences. In 2008, 17 of the 28 cases requiring the leave of the court to appeal against conviction or sentence were refused.
- 4.69 Inspectors have heard evidence from some victims of a lack of follow-up and information concerning court appeals processes, especially in the more serious cases such as those involving a death where the concerns of victims families are most acute. Inspectors experienced one victim who, following the murder of her son and the trauma of a lengthy trial and conviction, was shocked to read of an appeal in a local daily newspaper. When she contacted investigating police, they too were unaware of the appeal. For this victim the situation re-awakened painful memories and led to anxieties about having to return to court, fear of the perpetrator being released and confronting this person and feelings of being “sidelined and forgotten”. It is not appropriate that such victims are informed via the media. Instead the criminal justice system needs to ensure that victims receive updates directly from it.
- 4.70 Inspectors were informed by PPS staff that there is such a process, and standard letters are provided to Prosecutors for adaptation in order to inform victims of appeals processes. In their review of PPS case files, Inspectors found one case file in which there was an appeal but no evidence of any communication with the victim. However,

as these are relatively new processes indications that some victims have not previously been informed of appeals and hearings must be considered in that context. **Inspectors would encourage the PPS to quality assure practice with regard to communication with victims surrounding appeals during the following six months.**

## Witness expenses

- 4.71 The PPS are responsible for the payment of witness expenses for attendance at court. The PPS aim is that all correctly completed witness expense claim forms are processed within three working days of receipt, and the actual payment is made within seven days. Inspectors heard no evidence of any issues or concerns regarding this service with the exception that those who support vulnerable and, for example, elderly victims and witnesses are ineligible for the payment of expenses. Some in the VCS suggest that this should be revised to include such carers. In terms of PPS performance in respect of payments, in the last financial year the percentage of witness payments processed within four days ranged over the 12 months between 96%-100%. This is commendable and underscores the fact that Inspectors heard no concerns about this specific aspect of services.

## Victim and Community Impact Statements

- 4.72 Victim impact statements are generally personal statements from individual victims in which they outline the individual and specific nature of the impact of crimes upon them. They differ from routine statements which generally include only statements of fact regarding what the individual saw, heard or did - in other words, evidence which could be adduced in court. On the other hand, community impact statements are or could be used by defined groups, to provide a court with factual details of the impacts of crime on their communities. It is generally

accepted that both victim and community impact statements are applicable only post-conviction. In order to avoid any confusion, victim impact reports are generally provided to a court by independent professionals (such as doctors/psychologists etc.) on the impacts of crime on an individual from a professional perspective. In each case these reports and statements are used to assist the court in reaching a decision as to sentence, and are not used until after a conviction has resulted. It will be important that any information regarding the impact on the victim is shared with PBNi staff for the purposes of preparation of pre-sentence reports.

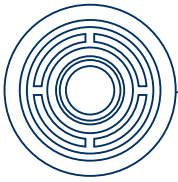
- 4.73 There is an arguable benefit to victim impact statements. Some argue that they are both necessary and successful while others such as Bottoms and Roberts (2010)<sup>18</sup> argue that they are largely ineffective in terms of ensuring better treatment for victims, or in identifying any services they might need.
- 4.74 Inspectors are aware that the issue of victim impact statements has been under discussion for a period of time. Indeed the subject is now included in the DoJ 2010-11 Victim and Witness Annual Action Plan published in June 2011. This contains a commitment to *'...take forward work to formalise practice regarding victim impact reports and victim impact statements and publish a consultation document by December 2011.'*
- 4.75 The PSNI policy on victims and witnesses (2005-06) recognises the need to consider victim impact statements, but restricts this to indictable cases; meaning the most serious of cases tried in the Crown Courts. Indeed, in a recent Crown Court case Mr Justice Hart<sup>19</sup> endorsed the use of victim impact reports and victim impact statements. While not excluding their

use in other cases, he did indicate that the practice was for their use in cases of a *'...violent or sexual nature..'* Interestingly, in the case referred to the Court, it also had before it what was referred to as a community impact statement, which was not accepted by the court.

- 4.76 Inspectors found that the understanding and application of a victim impact statement in Northern Ireland was not well understood, and the absence of any guidance meant that various professionals, and the public, took differing views as to how and when, and indeed even if they could be used. Inspectors were made aware at the time of inspection fieldwork of a Judicial review being taken by one individual as a result of having been told that a victim impact statement would not be taken in that case. This underscores the confusion surrounding the use of victim impact statement. The lack of guidance and instruction for professionals and the public is feeding the misunderstandings apparent in this area.
- 4.77 There are important considerations regarding the expectation of victims in using a victim impact statement and among these are that a victim or victim's family should not express any view as to the sentence which should be imposed, if any. Notwithstanding the limitations and complications concerning victim impact statements, Inspectors view the benefits of a codified, regularised and well understood scheme in Northern Ireland as worthwhile in giving victims a voice and augmenting the role of victims throughout the criminal justice process. At present, matters affecting the community may be drawn to the attention of the court by the Prosecutor, and this might be considered the vehicle for delivery in any change. It is recognised that change will require the co-operation and acquiescence of the Judiciary, however, the legal precedents for the use of victim impact

18 Bottoms, A and Roberts, J 2010, *Hearing The Victim, Adversarial Justice, Crime Victims and the State: A need for re-balancing?*, Devon, Willan Publishing.

19 Neutral Citation No [2010] NICC 14 delivered 23 March 2010 at Belfast Crown Court.



statements are in place and to a lesser extent victim impact statement are already in use in some courts and in some circumstances in Northern Ireland as referred to above. **Inspectors recommend that the Criminal Justice Board introduce guidance on a victim impact scheme in Northern Ireland and that the lessons learned from implementation of the victim personal statement in England and Wales are considered in doing so. Once agreed, the guidance should be available to the public.**

- 4.78 Arising from other work conducted by CJI, principally in respect of its work entitled 'An inspection of the handling of sexual offence cases by the justice system in Northern Ireland: Donagh sexual abuse cases inspection', it has become apparent that there is a yearning amongst many communities for them to have a voice at an appropriate juncture in the criminal justice process. Inspectors are acutely conscious that communities may be victims in the same sense that individuals are victims. This is particularly so in cases of so called anti-social behaviour where these issues can affect the quality of life for whole communities. In addition, there is a more general swing towards making justice more responsive to local communities and community impact statements are potentially seen as one way of achieving that.
- 4.79 Community impact statements would appear to be a vehicle to give expression to that voice. They are used to some degree in a variety of jurisdictions including in the USA and also in England and Wales. DoJ officials have drawn to Inspectors attention work under way in this area in England and Wales. However, decisions on the way forward there have not yet been reached. Nonetheless, the outcomes from this work, once known, will be important to consider and could be a useful reference point for the consideration of community impact

statements and in learning lessons in terms of their potential development in Northern Ireland.

- 4.80 Resulting from the CJI report on the Donagh sexual abuse case, Justice Minister Mr David Ford, MLA has committed to conducting a feasibility assessment of the use of community impact statements. Inspectors draw attention to this again and look forward to the outcome of such a study.

### Court user forums

- 4.81 Inspectors welcome the continuance of the court user forums as an important mechanism to ensure that issues of concern to the various court stakeholders can be discussed and potentially resolved.

## CHAPTER 5:

# Victim and witness services



5.1 As with the 2005 CJI inspection, Inspectors again heard victims indicate that they can have multiple needs, some of which require direct attention within the criminal justice system, and others require more practical support as a result of the harm caused by crime. For example, health issues (including mental health), with housing issues, assistance with insurance claims, and emotional support. Inspectors found that victims and witnesses in Northern Ireland were expecting as a minimum to have comparable standards to those available to citizens elsewhere in the UK. For example, policy development in England and Wales has led to the development of the Domestic Violence, Crime and Victims Act 2004, which contains the statutory right for victims and witnesses to be offered the services of Victim Support.

5.2 Evidence from a number of sources indicates that each victim is unique in terms of how they react to a crime having being perpetrated against them. The distinctive responses can manifest themselves in terms of the victim's emotional and physical needs and the involvement of others affected by the crime. This makes it difficult for agencies to adopt a 'blanket approach' for service delivery, but emphasises once again the need for effective partnerships with the voluntary sector. Further, this underlines the need to ensure the provision of both general support and specialist assistance is accessible to help the victim as they enter the criminal justice system through reporting a crime to the PSNI. It is

important that statutory and voluntary bodies understand both the needs and expectations of victims. Equally, it is important that victims and witnesses understand how the criminal justice system operates, and that they are provided with sufficient practical reference points to aid their understanding of it. This latter responsibility lies, not with the victim/witness, but with the criminal justice agencies responsible for service delivery.

5.3 There are two separate witness services, commissioned by the DoJ in support of the criminal justice system within Northern Ireland:

- the VSNI Witness Service which refers to adults 18 years and over; and
- the NSPCC Young Witness Service which refers to children/young people under 18 years.

5.4 Each service is funded by the DoJ and administered by staff and volunteers from VSNI and the NSPCC respectively. Each of these services is discussed in more detail below.

### Victim Support Northern Ireland (VSNI)

5.5 DoJ funding of VSNI amounted to £2.2m in the 2009-10 financial year. There is a Memorandum of the Terms and Conditions of Grant-in-Aid in place between the DoJ and VSNI which supports the provision of services.



5.6 VSNI provides the following main services:

- community service;
- criminal injuries compensation service; and
- witness service.

5.7 The VSNI Witness Service operates out of court buildings in Antrim, Downpatrick, Dungannon, Craigavon and Laganside. VSNI also share accommodation with the NSPCC in an office close to the Londonderry/Derry court house. The service covers all criminal courts. Staff and volunteers of the Witness Service are trained to provide emotional support and practical information to witnesses, victims and their families. Where children are witnesses, the NSPCC are the lead agency for service provision, and do this in partnership with Victim Support (see post).

5.8 The VSNI Witness Service is free and confidential and is available to prosecution witnesses over the age of 18. The Witness Service offers:

- someone to talk to in confidence;
- a visit to the court and where possible, a look around a court room before being called as a witness;
- information on court procedures;
- a quiet place to wait before and during the hearing;
- someone to accompany them into the court room when giving evidence;
- practical help, for example, with expense forms;
- to put them in touch with people who can answer specific questions about the case (the Witness Service cannot discuss evidence or offer legal advice); and
- a chance to talk over the case when it has ended and to get more help or information.

5.9 There is no similar service provision for defence witnesses at any courts, as might be available in England and Wales. An examination of the current DoJ action plans

and statements of priority indicates that this is absent and not under consideration. However, Inspectors assessed that the needs of defence witnesses, given their small numbers, are largely adequately met by those who call them. Nevertheless, criminal justice system professionals need to recognise that such witnesses can have the same needs and concerns as other witnesses, and thus need to be given due consideration. This is the case, for example, with the NSPCC Young Witness Service (see post). In addition, the Witness Service does not currently provide support for witnesses at inquests and is not funded to do so. However, the NICTS reported that its Coroner's Liaison Officers would refer victims and witnesses to the services of either Witness Service or Young Witness Service, as appropriate. It was not apparent what witnesses might be referred, or in what circumstances. There thus appears to be a gap in both understanding and service provision in this area. **Inspectors recommend that the DoJ works with the NICTS and VSNI to develop a clear system of voluntary referrals and thus support for victims/victim families and other witnesses who attend Coroners' Courts.** Adequate funding should be provided by the DoJ to deliver such a service.

5.10 VSNI have conducted their own customer satisfaction survey during the 2009-10 financial year. This has found that 'despite referral processes being in place, 13% of respondents relied on Witness Service personnel approaching them directly at court on the day of the trial, however it should be noted that this figure decreased significantly from the previous year's figure of 22%.' Further data on the efficacy of the Witness Service is provided by the NIVAWS. This indicates the vast majority of respondents who received support from the Adult Witness Service/Young Witness Service reported being satisfied with the support provided (96%).



## Community service

5.11 VSNI provides help through a network of local community offices across the whole of Northern Ireland based in offices at Belfast, Ballymena, Newry, Foyle and Omagh. Staff and volunteers in these offices offer information and practical help to people who have suffered crimes ranging from burglary, to the murder of a relative. The service is confidential and offers:

- emotional support;
- information on police and court procedure;
- liaison with other organisations on behalf of clients;
- advice and information on compensation and insurance matters; and
- contact with other sources of help.

5.12 Of those VSNI clients who specified that practical help was given, the majority commented that this help was in relation to home security, for example, help with getting security lights and window and door locks fitted. Those clients who were referred on to another agency were referred to agencies such as WAVE, the NSPCC, Women's Aid, CRUISE, The Family Trauma Centre, Men's Support Action Group, Nexus and SAMM.

5.13 Inspectors heard concerns in a number of quarters that some victims needed help in the form of advocacy to assist them negotiate their way through the criminal justice system. For example, Inspectors heard from some victims who felt they needed to engage Solicitors to help them in their contact with the criminal justice system. On the one hand, it cannot be right that victims require advocacy services to assist them in doing so, however, on the other hand Inspectors recognise there will be those vulnerable and disadvantaged groups who will need such a service. This might range from practical and emotional support and assistance to acting as an advisor and/or representing victims. It will

be an unnecessary expense for many to engage a legally qualified advocate, and Inspectors do not believe that in many cases this will be necessary. Inspectors thus recognise the need for VCS advocacy.

**In order to address the needs of victims who:**

- **do not engage the criminal justice system;**
- **have difficulty accessing criminal justice services;**
- **need help beyond the period when the criminal justice process has ended; or**
- **who need specialist assistance for reasons of vulnerability;**

**the DoJ should further develop advocacy services.**

## Compensation service

5.14 VSNI provides a Criminal Injuries Compensation Service to assist victims of violent crime in Northern Ireland to apply for compensation under the tariff-based scheme. Victim Support has received funding and implemented its Criminal Injuries Compensation Service to provide assistance with initial applications, reviews and appeals via a free and confidential service delivered by trained staff and volunteers. No charge is made for this service and any awards received are paid to clients in full without any deductions.

5.15 The Compensation Agency acknowledge that a significant number of claimants are referred from VSNI. In its annual report, VSNI reported that its compensation service helped over 2,000 victims of violent crime to claim £4.5 million in compensation. It further reported, 42% of those who applied for Criminal Injuries Compensation (5,025 people) were assisted by their service. The compensation service also supported 29% of those who applied for reviews (567 people) and 27% of those involved in appeals (159 people).



5.16 Evidence of the efficacy of VSNI's services can be found in the NIVAWS 2009-10. This indicated:

- 24% of respondents to the 2009-10 survey reported that they had contact with VSNI at some stage; and
- the vast majority of respondents who had contact with VSNI (86%) reported they had been satisfied with the contact.

5.17 The NIVAWS also highlighted that 96% of those who had contact with the Witness Service were satisfied with the treatment they received. The VSNI's own feedback surveys conducted with its clients revealed very high overall satisfaction rates of between 87% and 96%.

5.18 Inspectors also note that in the DoJ Research and Statistical Series: Report No 1 on the Cost of Crime in Northern Ireland<sup>20</sup> it is estimated that the total cost of crime in Northern Ireland is some £2.9 billion. The total costs, split by cost category shows, for example, that victim support represents 0.11% and health at 1%. Examples of the major costs are, 'response costs' (32%), 'stolen/damaged property' (30%) and the 'physical/emotional costs' (26%). In other words, the overall costs of victim support are diminutive in comparison with other areas of expenditure in the criminal justice system.

5.19 Inspectors found that the body of statistical/survey and other data thus suggests that the VSNI services are generally well regarded, valued and proficient.

## Young Witness Service

5.20 The Young Witness Service provides support and information to young prosecution witnesses, under 18 years old, in criminal cases. They are referred to as young witnesses. The overall aim of the Service is

to ensure that all young people under 18 years old, appearing as witnesses for the prosecution in the Crown Court are aware and have the opportunity to avail of the Young Witness Service. The Service is operated in accordance with a service level agreement with the Criminal Justice Development Division of the DoJ. This is monitored and reported upon on a regular basis. Further protocols are in place with the PSNI and a tri-partite arrangement with the NICTS/VSNI. These are subject to regular review.

5.21 The Service includes support to the young witnesses and their parents/carers before, during and after any trial. The majority of direct support, particularly during the stage the child is giving evidence, is provided by trained volunteers. In more complex cases, particularly those involving ongoing child protection issues, or because volunteers are not available, it can be more appropriate for direct support services to be provided by a social work qualified Young Witness Worker.

5.22 The NSPCC commenced and funded this Service in 1999 primarily in the Crown Courts, in Belfast and Londonderry/Derry. The Northern Ireland Office took over responsibility for the funding of the Service in 2001 and it was launched across all Crown Courts from 2003. The service has since been developed and extended to include some of the Magistrates' and Youth Courts as part of a planned roll-out. At the time of the CJI inspection, there was a limited roll-out with some gaps in service provision in Ards, Downpatrick, Armagh, Enniskillen, Coleraine, Omagh and Dungannon courts. There is ongoing consultation with the DoJ regarding the completion of the business case and full roll-out. It is hoped that the full and final roll-out of the service to all courts across Northern Ireland will have been completed by the end of 2012.

<sup>20</sup> Department of Justice Research and Statistical Series: Report No.1 on Cost of Crime in Northern Ireland with supplementary Annex, The costs of crime against Government Departments in Northern Ireland, 2010 [http://www.dojni.gov.uk/index/publications/cost\\_of\\_crime.pdf](http://www.dojni.gov.uk/index/publications/cost_of_crime.pdf).

5.23 Funding of the service has now passed to the DoJ who provide the vast bulk of the financial burden. However, it is estimated that some 10-15% is absorbed by the NSPCC. The amount of funding delivered by the DoJ in the last financial year was £373,000. Inspectors understand that funding will be made available in 2011-12 for the roll-out of the service in all Magistrates' and Youth Courts.

5.24 Referrals are currently running at approximately 350 per annum, with approximately 120 of these in the Crown Court. Crown Court referrals are mostly made by the PSNI, given that PPS systems are unable to provide relevant data, whereas Magistrates' and Youth Court referrals are initiated primarily by the PPS, supported by an electronic referral system. It has been indicated to Inspectors that this is most appropriate to the circumstances insofar as the PSNI have more detailed information on Crown Court matters and established contact with families. This, once again, flags differing systems in which different agencies are responsible and through which victims can fall. Inspectors will return to the issue of responsibility and accountability for the victim's journey elsewhere in this report.

5.25 Thus, referrals come principally from the PSNI and the PPS. Police referrals tend to be in writing or by telephone, whereas PPS referrals tend to be mostly electronic. The NSPCC highlighted the fact that referrals depended largely on the diligence of the Police Officer in charge or the Prosecutor involved. At the time of the PSNI change from the former CARE Units to the current Rape Crime Units and Public Protection Units, the NSPCC had to re-visit the referrals process. Inspectors recognise there is a need for other professionals, and indeed the NSPCC to continually keep the service offered by the NSPCC to the forefront of thinking. This will take some continuing education on the part of those

responsible.

5.26 The NSPCC have highlighted continuing difficulties with the receipt of timely information from other agencies in order to advise and arrange volunteers. A second difficulty relates to the number of delays and adjournments in cases which has an impact on the service provided. This, once again, supports the findings of Inspectors regarding delay discussed elsewhere.

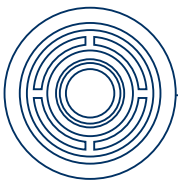
5.27 While the numbers of referrals to the NSPCC Young Witness Service vary each year, the practice is for the NSPCC to invoice DoJ on a quarterly basis against actual work. Based on the figures provided of circa 370 cases and a budget of £372,000 this means that the notional service cost per case averages just over £1,000.

5.28 The NSPCC is cognisant of the need for service by defence witnesses, albeit it is not funded to provide this service. One referral from defence has been received by the NSPCC and they have provided appropriate support. In addition, the NSPCC will give appropriate advice to defence representatives and others on request. The NSPCC itself has absorbed costs related to defence services to date.

5.29 The Young Witness Service was subject to an evaluation in June 2006<sup>21</sup> which concluded, *'...the Service is providing support that is highly valued by young witnesses and their parents and held in high esteem by other agencies.'*

5.30 CJI Inspectors would endorse the view that the service continues to be held in high esteem by other agencies. Given limited direct feedback from young witnesses, Inspectors are not in a position to make a judgement regarding the young witnesses satisfaction. However, the service itself continues to be indispensable.

21 Report of the Evaluation of NSPCC Young Witness Service commissioned by NIO Community Safety Unit and completed by SSI, June 2006.



5.31 A range of community and voluntary sector groups provide help and support to victims. Very often the support they provide to victims is in place long before and long after the criminal justice system, if engaged at all, comes to deal with victims. In July 2010 CJI published its report on sexual violence and abuse and highlighted that many of the issues affecting these victims are similar to those facing victims as a whole. Once again, Inspectors found that victims, regardless of the nature of the crime can have similar needs, concerns, fears and expectations. What is different is the depth of the need, for example, in cases such as sexual abuse. The depth of the need is particularly marked with regard to ongoing support and counselling over a period far beyond that which the criminal justice system can ever hope to meet.

## Nexus

5.32 One of the agencies working in the area of sexual abuse is the NEXUS Institute who provide counselling and support for all victims (over the age of 17 years) whether they have been sexually abused as children or adults. They also provide support groups for victims, partners and family members and undertake educational and public awareness work in the community. Nexus receives over 5,000 telephone contacts annually and operate from over thirty locations across Northern Ireland. The majority of clients are not prepared to make a formal report to the police with staff estimating that less than 10% follow the criminal justice route.

5.33 Victims of sexual abuse are reluctant to report the crime for reasons including:

- fear of perpetrator;
- fear of disbelief;
- fear of being blamed;
- fear for family; and
- shame and/or guilt.

5.34 NEXUS staff reported that the criminal justice system is not encouraging to victims of sexual abuse and cited the following as grounds:

- the court system plays 'ping pong' with victims;
- the system encourages perpetrators to 'sit it out' waiting to see if victims have the courage and stamina to see a case through;
- victims often feel re-abused by the system;
- the disclosure of historical sexual abuse is often gruelling for victims – one recent case took seven hours for the police reporting procedure to be completed; and
- the system 'wears you down'.

5.35 Victims of sexual abuse were assessed by NEXUS to require a number of common key service standards. These included continuity so that victims did not have to repeat their stories over and over again, regular updates – even when nothing was happening, and professionals understanding of the victims perspective. The latter included an understanding that victims of sexual abuse often feel depressed, alone, can suffer eating disorders, or misuse alcohol and drugs. They may feel ashamed, disbelieved, manipulated and hurt. Finally, victims of sexual abuse can develop psychosomatic illnesses such as migraine and chronic back pain.

## Compensation Agency

5.36 The Compensation Agency administers the three statutory compensation schemes in Northern Ireland for criminal injuries, criminal damage and actions taken under the Justice and Security (Northern Ireland) Act 2007. Its aim is outlined in its Business Plan for 2011-14 as *'to provide a professional service to victims who have been injured through violent crime or who have had their property damaged, we recognise the affect on their lives and, where appropriate, give them*

*some financial support in an effort to help them recover and move on.'*

- 5.37 The number of claims received by the Agency depends primarily on the level of violent crime. The previous overall trend of an improving security situation in Northern Ireland has reduced the Agency's workload across all areas of their operations. However, changes in the security situation still have the potential to impact on expenditure and on workload.
- 5.38 The Agency has 75 staff and currently receives circa 8,000 tariff claims, 800 criminal damage claims and 95 Justice and Security Act claims per annum. The Agency report that the number of tariff claims is currently rising. At present, the average time for claims to be processed from receipt to payment is between 12-18 months. The time taken to process cases is impacted upon by a number of factors including the timely receipt of information from police, medical professionals and indeed delay in the process of cases in the criminal courts. Some straightforward claims can be dealt with in six - nine months.
- 5.39 Applications under all three schemes come to the Agency via VSNI (approximately 40%), solicitors (approximately 40%) or personal application (approximately 20%).
- 5.40 Following a change in legislation the payment of legal expenses is at the discretion of the Agency who no longer routinely pay legal expenses. Thus, if an applicant uses the services of a solicitor the costs would be borne by them. However, VSNI have been funded to supply free assistance to claimants who use their services.
- 5.41 The Agency has developed effective partnerships with both VSNI and the PSNI. A protocol agreement exists between VSNI and the Agency dated October 2009. The relationship with the PSNI has developed with a view to resolving some previous

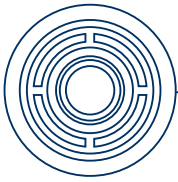
difficulties. A service level agreement was signed jointly by the Compensation Agency Chief Executive and senior police in May 2009. The processes are generally working well with some small unresolved difficulties in the receipt of timely reports from some PSNI districts. The current timescales for receipt of police reports is 16 weeks. The Compensation Agency is working with the PSNI to resolve any outstanding issues. Indeed, a pilot on further development of electronic data sharing (e-mail) is currently being operated. There are said to be good working relationships with police.

- 5.42 Some concern heard by Inspectors focused on public knowledge and understanding of the schemes, and in this respect would encourage the Agency to continue with outreach and public relations strategies to further improve awareness.
- 5.43 The Compensation Agency currently complete an 'exit' survey or customer opinion survey. The main focus of complaints is on the award made, rather than the service provided. However, learning has been applied from survey feedback and the name of an Agency caseworker is now given to applicants. The Agency are re-visiting the exit survey and are developing new questions in the hope that this will provide feedback which will drive further improvement. During the financial year 2009-10 16 complaints were received and four (25%) of these were upheld.
- 5.44 Inspectors learned that the current agreements have 'in built' reviews bi-annually.

### **Mentally Disordered Offenders Scheme**

- 5.45 The Mentally Disordered Offenders Scheme is a statutory scheme which came into operation in December 2008. It provides a service for victims of offences committed by mentally ill offenders who are held for





treatment in hospital in Northern Ireland under a hospital order and a restriction order. Participation in the scheme is entirely voluntary ('opt-in'). Victims or close family members will receive information on how to apply to the scheme from the Police or from Victim Support. Registered victims receive information about:

- temporary periods of absence from hospital as part of the offender's treatment plan or for compassionate reasons; and
- decisions of review tribunal hearings.

5.46 Victims are also being given the chance to submit their views in writing on the effect that the offender's proposed leave or possible discharge might have on their safety or wellbeing. Their comments are considered by the Mentally Disordered Offenders' Unit when decisions are made regarding proposed leave and will be included in the DoJ statement given to the Mental Health Review Tribunal when they are considering an offender's discharge from hospital. The Mentally Disordered Offenders' Unit will also make sure that registered victims are told about the outcome of the tribunal hearing.

5.47 In common with other such schemes in Northern Ireland, victim information is provided by the PSNI, while the NICTS (or the Department of Health, Social Services and Public Safety) notify the DoJ of those convicted who might fall into the scheme. At the time of writing, one person had registered with the scheme. Inspectors heard no concern regarding the scheme or its operation.

### **Northern Ireland Prison Service - the Prisoner Release Victim Information Scheme (PRVIS)**

5.48 The Northern Ireland Prison Service (NIPS) administers the Prisoner Release Victim Information Scheme (PRVIS) which was

introduced in July 2003. This is a statutory scheme and applies to victims of adult offenders who have been given a sentence of six months or more. Its main aim is to provide victims, members of their family, carers or guardians with information on the final discharge and temporary release of prisoners. It also gives victims the opportunity to make written representations which will be taken into consideration when an offender applies for temporary release. The scheme in essence, is an information giving service, increasingly by way of telephone contact with victims. Again, this is a voluntary 'opt-in' scheme and victims will not receive any information unless registered. At the time of inspection fieldwork in September 2010, a total of 653 victims had registered with the scheme.

5.49 Victims can register to join the scheme by:

- completing an application form forwarded to them by the PSNI;
- contacting the NIPS Victims Unit; or
- applying online at [www.nidirect.gov.uk/prisoner-release-victim-information-scheme](http://www.nidirect.gov.uk/prisoner-release-victim-information-scheme).

5.50 In practical terms, the NIPS staff check the Prisons Record Information System to identify persons convicted and sentenced to six months or more. From this staff assess whether a victim may be involved (for example, some cases are clearly victimless such as drugs offences and 'offences against the state'). Contact is then made with the PSNI to identify eligible victims and the PSNI make contact with potential victims by letter. If there is no registration within two months, the NIPS request the PSNI to issue a reminder to the victim. The NIPS contact with victims is largely by way of letter, although staff reported an increasing tendency for victims to request information and support by telephone. Staff have no formal training in dealing with victims, however they do ensure that those who

may need additional support are referred to appropriate statutory or voluntary agencies. Steps are taken by PRVIS to ensure that the release of information by telephone is verified by the use of a unique reference number provided to applicants following verification of their status by the PSNI. The NIPS are thus reliant on the PSNI 'signposting' the service to relevant victims. The PSNI send a letter to victims who may be eligible for either this and/or the Probation Service VIS enclosing letters from each as applicable.

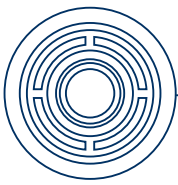
- 5.51 Excepting 2006 and 2009, registrations with the scheme have risen year on year and this is reflected in the table of registrations below:

Year	Number of Registrations
2003	39
2004	52
2005	77
2006	59
2007	100
2008	124
2009	122
2010 (to September)	80
<b>Total</b>	<b>653</b>

- 5.52 In terms of the number of applications issued over the period of the scheme this represents 2,714 and means that approximately 24% of eligible victims actually register with the scheme.
- 5.53 Some concern was expressed to Inspectors about the impact the scheme can have on victims at a vulnerable time within the process. Inspectors found that the NIPS staff were most empathetic and determined to provide what assistance they could, albeit remotely. There was no formal support system in existence for dealing with the distress potentially aroused by the provision of this information and staff reported that

they would refer distressed victims to other support services as they felt appropriate. Staff had information regarding relevant support organisations readily at hand for this purpose.

- 5.54 In terms of appraisal of the scheme, all victims who register are sent an evaluation form. Largely, this has identified issues which are outside the control of the NIPS. Concerns centre on the exact dates of offender release, address where the offender will be released to and who is supervising them. However, under current legislation the NIPS cannot provide such detail. This is so as to protect both the victim and the offender. In a number of evaluations seen by Inspectors, victims expressed satisfaction with the service but commented unfavourably upon time served or their fear of the prisoners release.
- 5.55 Inspectors have been provided with samples of letters received by victims and these are entirely appropriate. However, it occurs to Inspectors that there are significant 'cross-overs' between this scheme and others, together with processes involved. For example, the NIPS letter in respect of life sentence prisoners also refers to the Probation Board's scheme and encloses leaflets, as does the initial PSNI letter. There must therefore be potential for confusion amongst victims about these schemes, and confusion in particular as to who is actually responsible for administering them.
- 5.56 In 2005 CJI recommended, *'The Criminal Justice Board should undertake a review of both the NIPS and the Probation Board for Northern Ireland (PBNI) information schemes to assess the need and marketing of both and identify any duplication, availability of management information and consider the effectiveness of the schemes in terms of the victim's desire for the 'one stop shop' seamless service'*. Inspectors final determination and assessment of the way forward for PRVIS and the area of victim information schemes



as a whole follows discussion of the Probation Service's separate VIS. The PBNI and the NIPS were planning to meet at the time of the inspection to review their respective schemes with a view to streamlining processes, forging links and clarifying roles. There were also proposed discussions on staff exchanges and joint training/development. Inspectors are aware that VIS and PRVIS are currently looking at ways in which their separate leaflets can be amalgamated. Inspectors commend those involved in initiating and developing this work. It is clear to Inspectors that the need for a co-operative system has already been recognised.

### **Probation Board for Northern Ireland (PBNI)**

- 5.57 The PBNI helps to prevent re-offending by assessing offenders, challenging their offending behaviour, changing their attitudes and behaviour and thereby protecting the public. The PBNI seeks to achieve its aims through the assessment and management of risk, through the preparation of professional assessments to assist sentencers, and the supervision of offenders in the community.
- 5.58 While the work of the PBNI has traditionally been understood as working with offenders rather than victims, it was apparent to Inspectors that the PBNI takes very seriously its responsibility to victims; both in preventing re-offending through its work with offenders, but also in terms of the VIS and other work. The core of the PBNI work however is to minimise re-offending and therefore, ultimately, to reduce the number of victims of crime in the future. The PBNI emphasised to Inspectors that the 10,000 reports prepared by the PBNI in a year and the 4,000 offenders supervised, all included consideration of victims issues.
- 5.59 However, the Probation Board's more direct role with victims is through the

development of the VIS which became operational in October 2005. This is also a statutory scheme which seeks to ensure that victims receive information about what it means when someone is sentenced to an Order which requires supervision by the Probation Board. The PBNI acknowledges that it may be upsetting for victims to think about the crime again and staff are extensively trained to deal with victim issues such as trauma. In addition, all are trained staff with relevant social work qualifications.

- 5.60 The PBNI have a small centralised unit based in Belfast who administer the VIS with outreach around the country. This unit consists of three full-time and two part-time staff. In recognition of the increasing caseload shown in the table below, the PBNI has recently increased its complement to one Area Manager, three Probation Officers and one Administrator. The role is recognised within the PBNI as broader than simply providing information to victims – it is also seen as a support mechanism for victims. The PBNI are also very much aware of the need to ensure that the service is tailored and those who, for reasons of vulnerability, require a more customised service receive it – rather than a 'one size fits all' approach.
- 5.61 Since inception of the scheme in 2005, close to 800 victims have been contacted and staff report an 8-10% increase in work and registrations year on year. Approximately 75% of registrations to the scheme come via PSNI letters, the remainder come via the PRVIS Scheme. The PBNI also conduct their own evaluations of the scheme by way of a feedback survey. Approximately 51% return evaluation forms and this demonstrates that 97% are either satisfied or very satisfied with the information service they receive. The following table represents the actual number of registrations per year. Some 32% of eligible victims register with this scheme.

Year	Number of Registrations
2005	40
2006	101
2007	132
2008	141
2009	144
2010	146
2011 (to June)	77
<b>Total</b>	<b>781</b>

5.62 A benefit of the Probation Service administration of the scheme is that, with the consent of the victim, their information can be confidentially passed to Probation Officers working with offenders to inform risk assessment and risk management work-plans. Thus the continued importance of the victims perspective continues to be considered. Inspectors recognise that this is an area of good practice being led by the PBNI.

5.63 In terms of victims schemes generally, in Scotland the equivalent scheme is the Victim Notification Scheme which is administered by the Scottish Prison Service. In Scotland, the scheme applies to prisoners sentenced to 18 months or more for a range of serious offences and all relevant information is supplied to the victim by the Crown Office and Procurator Fiscals Service (the equivalent of the PPS in Scotland).

5.64 In England and Wales the National Offender Management Service (NOMS) (Probation) contacts victims if the offender has been sentenced to 12 months or more for a sexual or violent offence, including mentally disordered offenders in certain circumstances. This service provides general information at key stages in the offender's sentence, such as transfer to a different category of prison or applications for release.

5.65 Bearing in mind the potential for confusion mentioned earlier and the potential for

economies of scale in the administration and systems supporting the various victim information schemes, the previous CJI recommendation remains broadly apposite. However, **Inspectors recommend the amalgamation of all post-conviction VIS under the supervision of the PBNI.** This will include the PBNI VIS, PRVIS and the Mentally Disordered Offenders Scheme administered by the DoJ. Work towards achieving this should be commenced immediately and progress monitored via the Victims and Witnesses Steering Group (VWSG).

5.66 Inspectors are conscious that there may well be economies to be realised in, for example staffing costs and other associated costs being 'pooled'. However, if the victim information systems are to operate effectively then there needs to be a considered approach and lead in for planning and other purposes so as to ensure that victims needs are adequately met. In addition, the PBNI staff are trained to a high standard and one central point for all post-conviction information should ensure that any confusion amongst victims is minimised. Inspectors note that while the Criminal Justice (Northern Ireland) Order 2005 dictates that the scheme for victim information regarding supervision following conviction, should be delivered by the Probation Board, the Justice (Northern Ireland) Act 2002, which provides a basis for PRVIS, specifies the Secretary of State as responsible for delivering a scheme. Under devolution this responsibility would pass to the Minister of Justice. It would thus appear there is no legal impediment to an amalgamation of these schemes since the latter Act merely requires a scheme to be delivered. It also occurs to Inspectors that in an amalgamation of these schemes, not all staff will be required to have professional social work qualifications, and that an appropriate mix of administrative and professional staff will be required. There may well be economies to be realised here.



5.67 The amalgamation of the various victim information schemes would bring practice in Northern Ireland into line, generally with that in England and Wales.

### **The Victims' Commissioner for England and Wales**

5.68 The previous Victims' Commissioner for England and Wales was Ms Louise Casey who was appointed to the role in March 2010. Ms Casey's role as Commissioner was:

- to promote the interests of victims and witnesses;
- to encourage good practice in the treatment of victims and witnesses; and
- regularly review the Code of Practice for Victims, which sets out the services victims can expect to receive from the criminal justice system.

5.69 In addition, the Victims' Commissioner chairs the national Victims' Advisory Panel which is made up of people who have themselves been victims of crime. Its purpose is to give victims the opportunity to have their say, both on changes to the criminal justice system, and developments in the services and support available.

### **A Victims' Commissioner/Victims' Advocate for Northern Ireland?**

5.70 Recommendation 230 of the Criminal Justice Review indicated that if there was little progress in improving services to victims and witnesses, the Government should consider appointing a Victims Advocate. On the basis of the evidence found in the course of the 2005 CJI report, Inspectors judged that there had been insufficient progress at that time and that it would be appropriate to recommend that a Criminal Victims Advocate for Northern Ireland (distinct from the then proposed Commissioner for Victims of the Troubles) should be created.

5.71 However, following further consultation with key stakeholders, Inspectors had agreed to make this a conditional recommendation to facilitate further time for agencies to develop improved service delivery. The condition for that recommendation was that unless a cohesive action plan could be developed and time bound activities were satisfactorily implemented, then the recommendation should be implemented as envisaged by the Criminal Justice Review.

5.72 The role of a Victim's Advocate would be to provide a 'victim's voice', with responsibility to co-ordinate and oversee the development of strategy and policy to address the real and perceived problems highlighted through CJI inspections, and in liaison with various victims groups and organisations across the VCS.

5.73 During fieldwork Inspectors consulted widely on the potential need for a Victims Advocate (or Commissioner) similar to that in England and Wales. A number of potential ideas were floated including:

- a stand-alone Advocate/Commissioner for Northern Ireland;
- an increased role for the VCS; and
- an increased role for VSNI.

5.74 During the course of fieldwork on this issue two common themes emerged which were:

- the affordability of an Advocate/Commissioner; and
- the outcomes. In other words, would a Commissioner deliver any substantial difference or change to the experiences of victims and witnesses?

5.75 The consensus currently seems to be that while acknowledging the merits and objectives of an Advocate/Commissioner, there are sufficient systems and indeed determination to drive the further changes necessary to make the improvements which an Advocate/Commissioner would deliver.



5.76 Inspectors assess the current position to be that the Victims' Advocate recommendation would duplicate existing work and responsibilities. For the present, Inspectors agree that the timing for a new Northern Ireland Advocate/Commissioner is not right, particularly in view of:

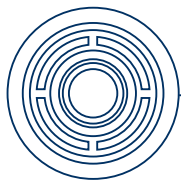
- the devolution of Justice; which needs to be given further time to become embedded;
- the statement of intent set out by the Justice Minister when he said of the introduction to the Justice Bill to the Northern Ireland Assembly, *"This is not some piece of legislation created in isolation. It is part of a broad programme of work at many levels to reshape Northern Ireland's justice system and to deliver for the people of Northern Ireland. The Bill is a major stepping stone in the devolution of policing and justice. It makes important changes to the way we deliver our justice system, that seeks to improve community safety and reminds us of the importance of victims in the justice process."* The Justice Minister has also said, *"Devolution provides us with the opportunity to reshape our justice system. Victims and witnesses are a key and integral part of its success and it is therefore crucial that we acknowledge the rights and legitimate expectations of all victims of crime. I am also determined that we enhance the quality of service provided to witnesses who assist the criminal justice process"*;
- the 'Bridging the Gap' five-year strategy and the development of a succeeding strategy;
- the introduction of a Victim's Code of Practice in March 2011; and
- further future inspection and review by CJI.

5.77 It was apparent to Inspectors that there is a very broad range of service provision for victims and witnesses not all of which is reflected here for the sake of concision. However, in considering the needs of victims

and witnesses from first report of an incident through the prosecution and court stages right through to aftercare, it is clear that there are many fitting services, but also some gaps. While these gaps have largely been referred to elsewhere, examples include:

- provision in Coroners' Courts;
- referral gaps;
- lack of structured systems to support victim information regarding bail;
- clear de-lineations of responsibility; and
- clear absence of a single point of contact.

5.78 Furthermore, there is evidence that some of the efforts of agencies is being concentrated internally, rather than considering the 'end-to-end' outcomes for victims and witnesses. The key message must be that simplicity, cohesion in service delivery, shared objectives and reduced bureaucracy should be among the central goals of all those involved in providing victims services across the criminal justice system. To that end, Inspectors suggest that VSNI should be regarded as the first key reference point of contact for victims by those in the criminal justice system. In turn, those who need additional or specialist support can be referred onwards. While that is largely what is happening for the main criminal justice system agencies including the PSNI, the PPS and the NICTS all of whom have appropriate links with VSNI, a focus on greater clarity of responsibility and consistency of service delivery will undoubtedly improve the experience of victims.



## CHAPTER 6:

# Governance, inter-agency working and performance



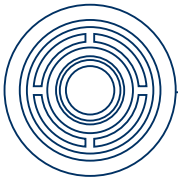
- 6.1 The DoJ has a range of devolved policing and justice functions, set out in the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010. However, the main role of the Department is to support the Minister of Justice to help keep the people of Northern Ireland safe.
- 6.2 In addition to its statutory functions, the DoJ provides resources and a legislative framework for its agencies and arms length bodies (which together constitute most of the justice system in Northern Ireland). Together with these organisations the Department is responsible for ensuring there is a fair and effective justice system in Northern Ireland and for increasing public confidence in that system. The DoJ has overall responsibility for co-ordinating the development of victims and witnesses policy within the criminal justice system in Northern Ireland. It also has accountability for the funding arrangements of most statutory and voluntary agencies involved in service delivery and support roles.
- 6.3 The DoJ have two public service agreement targets, one of which is 'Justice for All'. This has three indicators, one of which is victim and witness satisfaction with the criminal justice agencies. Below are the indicators, targets and performance at the time of writing:

### KPI 1: Confidence in the fairness and effectiveness of criminal justice system

KPI	Baseline	Target (2010-11)	Latest	Progress to target
Increase confidence in the 'fairness' of the criminal justice system	58.0% (Jul-Dec 2008)	60.8%	57.6% (Apr 2009 – Mar 2010)	3.2 % points below target
Increase confidence in the 'effectiveness' of the criminal justice system	35.6% (Jan-Dec 2008)	37.8%	37.3% (Apr 2009 - Mar 2010)	0.5 % points below target

### KPI 2: Victim and Witness satisfaction

KPI	Baseline (2008)	Target (2011)	Latest	Progress to target
Increase victim and witness satisfaction with criminal justice system by 2011	65.3%	69.5%	71%	1.5% points above target



- 6.4 In the Autumn of 2007, the Northern Ireland Office launched a five-year strategy, 'Bridging the Gap', with the aim of improving the criminal justice services to victims and witnesses of crime in Northern Ireland. The strategy set out a five-year plan covering the period from 2007-12. Its overall aim was to improve services to victims and witnesses and to increase overall satisfaction levels with those services, within the wider context of improving public confidence in the criminal justice system. The strategy focused on improvement objectives, designed to more effectively meet the needs of all victims and witnesses who come into contact with the criminal justice system, through the development of enhanced services.
- 6.5 Underlying the 'Bridging the Gap' strategic action plan are separate but inter-connected action plans. These action plans are the primary responsibility of the VWSG which is discussed post.

## Inter-agency co-operation

### *Criminal Justice Board*

- 6.6 Issues of cross-cutting criminal justice service delivery, including the provision of care for victims and witnesses, is strategically co-ordinated and managed through the work of the Criminal Justice Board. This comprises the heads or senior representatives from the PSNI, the Director of Public Prosecutions, the NICTS, the PBNi, the NIPS and the Youth Justice Agency (YJA). The Criminal Justice Board is chaired by a senior Civil Servant at the DoJ. It is assigned a central role in managing cross agency interests and co-ordinated service delivery across the criminal justice system.
- 6.7 Following a review of the Board's operation and structure, and at the time of inspection, meetings were taking place on a two monthly cycle, with the facility to arrange special meetings at the request of Board members. The minutes from the Board

meetings are not published. Inspectors asked for minutes from the Criminal Justice Board meetings for the two-year period prior to the commencement of the inspection (i.e. June 2008 – July 2010). Inspectors were not given full access to the meeting minutes, but to extracts relating to victims and witnesses issues. This showed as follows:

- meeting 27 June 2008 - discussion regarding 'One Stop Shop' initiative;
- meeting 26 September 2008 - discussion regarding 'One Stop Shop' initiative;
- meeting 26 and 27 November 2008 – discussion regarding 'One Stop Shop' initiative;
- meeting 11 February 2009 - discussion regarding 'One Stop Shop' initiative;
- meeting 9 July 2009 - discussion regarding Ballymena Pilot: Progress report;
- meeting 2 December 2009 - discussion regarding Victims Strategy; and
- meeting 26 February 2010 - discussion regarding Victims Strategy.


- 6.8 The Criminal Justice Board's purpose and aims are set out below:

### **Purpose**

- To deliver a criminal justice system which serves and protects the people of Northern Ireland and in which the whole community can have confidence.

### **Aims**

- To provide an independent, fair, speedy and effective criminal justice system for the community;
- to make the criminal justice system as open, inclusive and accessible as possible, and promote confidence in the administration of justice;
- to work together to protect life and property, reduce crime and the fear of crime, and be sensitive and responsive to the needs of victims of crime; and
- to work collectively to achieve efficiency savings through challenges and innovation



while driving up standards and ensuring that core responsibilities are met.

- 6.9 Inspectors found that matters of improved service delivery and co-ordination were a constant feature with individuals and focus groups highlighting these as being of key importance to both users and providers of victims and witnesses care. It was apparent to Inspectors that the issue of victims and witnesses has had an increasing visibility and emphasis among the issues considered by the Criminal Justice Board. However, this is qualified by further comments on the operation of the Criminal Justice Board which is discussed post.
- 6.10 Notwithstanding the above, the precise role and accountability of the Criminal Justice Board is unclear. As has previously been highlighted by CJI in its report regarding avoidable delay, its own members described themselves as a 'voluntary coalition' who meet to discuss areas of mutual concern. The Criminal Justice Board has no executive function or authority. While the Criminal Justice Board is chaired by a senior Civil Servant in the DoJ, there is no mechanism to hold individual agencies to account. There may be an opportunity for the new devolved arrangements in Northern Ireland to bring this issue under consideration with the Justice Committee playing an additional accountability role for the Criminal Justice Board and the wider criminal justice system.
- 6.11 Inspectors are also conscious of the new mechanisms implemented, among other matters, to deal with issues of delay, specifically, the Criminal Justice Delivery Group. Inspectors suggest that the Criminal Justice Delivery Group and the Criminal Justice Board consider whether an accountability regime similar to that in delay can be implemented to ensure the strategic targets and performance measures of the criminal justice system (insofar as they are relevant to the needs of victims and

witnesses) can be co-ordinated. Inspectors note that new arrangements have recently been agreed which will see the strategic recommendations of CJI being monitored.

- 6.12 Inspectors found that some of the difficulties in monitoring, reporting and in general victim and witness care, have already been recognised by members of the Criminal Justice Board. For example, the need to put in place more effective reporting mechanisms between the Criminal Justice Board and the VWSG. At the time of inspection, the Steering Group only reported formally on an annual basis to the Criminal Justice Board and otherwise, by exception. In addition, the Criminal Justice Board's 'victim's champion' who was spoken to by Inspectors, advised that the role of 'victim's champion' was ill-defined and understood across the entire criminal justice system. Inspectors regard this role as vitally important in ensuring that the issue of victims is kept at the forefront of all criminal justice system work, and further in ensuring that across the criminal justice system, the needs of victims can be supported.
- 6.13 However, Inspectors note that the Criminal Justice Delivery Group chaired by the Minister of Justice has been established as a '*key part of the justice system's oversight arrangements...*', intended to '*...underpin the importance of partnership working...*' It was further stated by the DoJ to provide '*...strategic oversight...*' of the work of the Criminal Justice Board<sup>22</sup>. Given the importance of the issues surrounding victims and witnesses, Inspectors consider that the most effective mechanism to give substance to that is to have a direct link to the Criminal Justice Delivery Group. Inspectors deal further with this matter at paragraph 6.20.
- 6.14 The difficulties inherent in the criminal justice system and which are highlighted here are not unique by any means, and the

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<sup>22</sup> Statement by Minister of Justice, David Ford MLA, 25 November 2010, available at [http://www.dojni.gov.uk/first\\_meeting\\_of\\_criminal\\_justice\\_delivery\\_group](http://www.dojni.gov.uk/first_meeting_of_criminal_justice_delivery_group).






findings above seem to be replicated and supported by the comments of Her Majesty's Inspectorate of Constabulary (HMIC) in their 'Stop The Drift Report' which stated *'There is no single agency or person in charge of the criminal justice system and therefore no single leader who can authorise change, promise delivery and be held to account.'* The report continues, *'The criminal justice system is not a clearly identifiable system but a set of independent component parts that have developed in a fragmented way.'*

### **Victims and Witnesses Steering Group (VWSG)**

- 6.15 In order to deliver effective services, policy and practice in the area of victim and witness care the Criminal Justice Board is supported by the VWSG. While the principal strategic forum for inter-agency working is the Criminal Justice Board, the vehicle for the co-ordination and delivery of inter-agency working and policy in respect of victims and witnesses is the VWSG. There are clearly a number of good examples of inter-agency working and Inspectors would draw attention to the good work of the group which has recently led to the publication of Achieving Best Evidence Guidance for Northern Ireland and the Victim's Code of Practice. Further evidence of some good inter-agency working at local level and on a case by case basis were found and this was true also in the area of training and awareness raising.
- 6.16 As a sub-group of the Criminal Justice Board, the VWSG reports to it on the development of policy initiatives aimed at providing consistent and co-ordinated delivery of services to victims and witnesses. The VWSG are also charged with responsibility for monitoring progress in the 'Bridging the Gap' strategy, and for the review and development of action plans associated with it. Thus, the VWSG are clearly involved in some extremely important, challenging and problematic

work. It is the core practical mechanism for the development of policy and for co-ordinating the delivery of service for victims and witnesses across the criminal justice system.

- 6.17 While there are various formal and informal agreements for co-ordination of services between agencies and the VCS, as we discuss in this report, Inspectors found frustration among some members of the VWSG and also at the level of the Criminal Justice Board that services could not be regarded as fully synchronised and homogeneous – with agencies continuing to concentrate their efforts on internal measures ('silo thinking'), rather than on the wider effects of victim and witness care. Inspectors found that the development of some victims and witnesses initiatives are currently concentrated on single agencies and do not routinely examine the issues in terms of the total impact and outcomes for victims and witnesses. Relevant examples concern the development of R4 and the PPS plans to develop IT user interfaces which have been referred to earlier.
- 6.18 In its 2005 report CJI found that it was unclear to what extent the civil servants within the VWSG (and its forerunners) could realise accountability, either individually or collectively for the work undertaken in relation to victims and witnesses. While the role of the VWSG is to facilitate joint working, rather than hold individual agencies to account, this remains the case and is especially marked since the strategic action plan targets, in some key areas, have been extended from year to year.
- 6.19 Inspectors also heard concerns regarding the high number of different chairs over the last four to five years, and further concerns that individual agencies were not focused on the delivery of outcomes which spanned the various agencies. Inspectors attended two meetings of the VWSG during Autumn 2010 and suggest that the vitality of the group could be augmented by the inclusion of a



greater focus and priority on outcomes spanning the criminal justice system, as opposed to single agency developments. Inspectors would encourage a future specific focus on, and priority to outcomes for victims and witnesses which influence tangible change.

- 6.20 Inspectors were concerned that the current structures, reporting mechanisms and dynamics were such as to create impediments to enhanced delivery and outcomes for victims and witnesses. While Inspectors restate that the VWSG is doing and has done vital work, in order to further enhance its role, **Inspectors recommend that the current VWSG should be re-constituted and incorporate amongst its membership senior executives from each of the main criminal justice system agencies. These senior executives, as core members should also be appointed as the individual agencies 'victim's champions'. Importantly, the VWSG should report directly to the Minister and the Criminal Justice Delivery Group on issues concerning victim and witness care and treatment, while at the same time keeping the Criminal Justice Board advised of its work. Victim's champions should be responsible to and directly report to the heads of each of the main justice agencies (PSNI/PPS/NICTS/PBNI) on matters including:**

- organisational performance in respect of the care and treatment of victims and witnesses;
- the implementation (operational delivery) of policy/commitments and the Victim's Code;
- active liaison across the criminal justice system with other partners;
- engagement with victims/victim groups and application of the learning from this; and
- representing the views of victims.

## Communication and information exchange

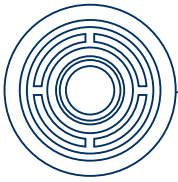
- 6.21 While Inspectors found some examples of excellent communication between agencies, fieldwork also confirmed there are gaps in communication at some stages of the process; thus impacting on service delivery for victims and witnesses, the statutory agencies and the voluntary sector support bodies. For example:

- the exchange of information with and/or between VSNI, the PBNI, PRVIS and the PSNI;
- information provided to the PPS and between agencies on 'special measures';
- gaps in the provision of information to VSNI Witness Service/the NSPCC, and gaps in systems to support and inform victims regarding the release of accused persons on bail; and
- turnaround times for the provision of information to the Compensation Agency by the PSNI.

- 6.22 In terms of information exchange, data protection is often quoted as an impediment. To that end the VWSG had invited the Information Commissioner to address them and this took place in May 2011. It was then noted that a new Data Sharing Code of Practice was to be launched in N.I. in late June 2011. Inspectors hope that this engagement and the new code will provide the basis for clarity to inter-agency information sharing.

## Training and development

- 6.23 There is no strategy to co-ordinate training across the criminal justice system. While training in victims and witness care is patchy across the criminal justice system there are examples of good practice with cross agency and cross sector training and development opportunities. Inspectors acknowledge that the VWSG have commissioned work in this area by Skills for Justice to identify and address gaps. The



Victims and Witnesses 2010-11 Strategic Action Plan incorporates an action; *'To assess the final report of Year One of a Skills for Justice modular learning and development project, and make a recommendation on the way forward.'* However, at the time of writing, an agreed end product had not been fixed.

- 6.24 The voluntary sector organisations are keen to participate with all the statutory bodies to help increase awareness of their role and specialist service and needs of clients. For example, VSNI have engaged with a number of training and awareness initiatives and this is a constant drain on their resources, but nonetheless see this as an important and necessary investment. The Women's Aid Federation has also been providing training with the main agencies, including for example, the NICTS. It has also developed its own DVD aimed at awareness raising. Inspectors suggest that the Women's Aid Federation make this available to the PSNI and that the PSNI in turn ensure that District Commanders make use of this at regular intervals to ensure front line Officers who are responsible for first contact, receive the benefit of this enhanced awareness. This matter is linked to the recommendations made in Chapter 2 regarding PSNI training.
- 6.25 Some voluntary bodies expressed concern regarding the training approach being adopted by some agencies. Some felt that while they were consulted about training issues, there was a lack of the transfer of this to the 'front end' in terms of outcomes for victims and witnesses. This was particularly so in respect of policing and an example of this relates to VSNI having to engage with the PSNI at two levels (senior command and practitioner), in order to achieve desired outcomes.

## Service delivery and performance measures

- 6.26 Unlike elsewhere in the United Kingdom, Northern Ireland does not have a number

of key service delivery standards. Among these is a Witness Charter, in other words, a published set of minimum standards of service delivery for witnesses, and the absence of codified guidance surrounding issues such as community and victim impact statements.

- 6.27 However, baselines in respect of victim and witness satisfaction surveys have now been established to provide assessment of the quality of services delivered by the criminal justice system. This has been achieved through the NIVAWS which was commissioned by the Northern Ireland Office as a means of both monitoring progress against the various actions detailed in the 'Bridging the Gap' strategy document and, more specifically, with a view to monitoring performance against the 'Justice for All' key performance indicator.
- 6.28 Inspectors have referred previously to the limitations of the NIVAWS, given its exclusions. However, Inspectors also acknowledge some recent work conducted and planned by the VWSG to develop additional engagement with victims/victims groups. This will need to be a continuing strategy in order to seek out alternative views, challenge current thinking and to build on the NIVAWS.
- 6.29 There is a lack of understanding and knowledge of joint policies, plans, procedures and performance indicators across the criminal justice agencies. There was also some concern raised with Inspectors that un-aligned priorities were having a detrimental operational impact. One senior Police Officer commented that, *"Priorities for the police are not priorities for the PPS - performance measures for the police are just not on the PPS radar."* However, of more concern to Inspectors were strategic targets which, while laudable and appropriate to single agencies, could have an adverse effect on the care and treatment of victims and witnesses. For example, a current performance target published by the

NICTS in its 2010-11 Business Plan dictates:

*'To facilitate the efficient disposal of criminal business:*

- *80% of Crown Court defendants will be arraigned within six weeks of committal;*
- *80% of Crown Court defendants will start their trial within 18 weeks of committal;*
- *80% of Crown Court defendants will be sentenced within six weeks of a plea or finding of guilt;*
- *80% of Magistrates' Courts adult defendants will have their case disposed of within nine weeks of first hearing; and*
- *a finding will be reached within 12 weeks from first listing for 80% of Youth Court defendants.'*

It should be noted that these targets are set by the Lord Chief Justice.

6.30 The practical effect of this target means that:

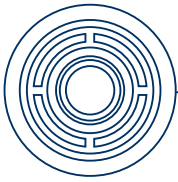
- stand-by trials are regularly being listed which have little hope of proceeding. While Inspectors found that all concerned, especially the NICTS CPOs, were taking steps to ensure, insofar as possible, that 'victimless' trials were being listed in these stand-by slots, there remained occasions where victims and witnesses were being warned of stand-by trials leading to the potential for their unnecessary attendance and anxieties being raised; and
- some trials are being fixed 'blind' as to witness availability.

6.31 Some legal practitioners told Inspectors that cases listed as stand-by for a Tuesday were "never going to happen" but that no-one would ever admit that the preceding Friday. Thus, victims and witnesses were called to attend court. Despite this, Inspectors understand that the use of stand-by trials is currently regarded as vital to the efficient operation of the Crown Courts and are aimed at ensuring the adequate utilisation of court time and the minimisation of delay.

6.32 In 2006 CJI conducted an inspection on performance targets across the criminal justice system. At that time, in terms of potential conflicts, Inspectors commented, "There are no serious conflicts, but some targets are in practice unhelpful to other agencies. There is limited evidence of agencies getting together to target key aspects of the criminal justice system jointly, and there is a widespread feeling that it would be right for the Criminal Justice Board to be more proactive in managing the structure of targets." Inspectors went on to say, "There is a widespread feeling that more could be done to make the targets and plans of the criminal justice system as a whole more coherent and to give it a stronger direction." Those comments remain relevant in the context of this report with greater emphasis being given to the development of shared measures across the criminal justice system. That is not to say that there are not joint initiatives and daily joint working across a range of issues. There is clear evidence that this is so, including jointly agreed Criminal Justice Standards. However, Inspectors simply encourage a greater specific emphasis and focus on strategic targets and measures which have at their core the further improvement of the experience of victims and witnesses.

6.33 It is apparent that the policies and procedures of the criminal justice system relevant to victims and witnesses in some cases are lacking continuity and are imprecise. For example the PPS policy (paragraph 5.1) states, 'In each PPS region, dedicated teams of specially trained staff, Community Liaison Teams, provide an information line to assist with any queries a victim (or witness) may have.' However, the CLT's do not deal with Crown Court cases. In addition, the policy states, 'Victims are also kept informed of the progress of the case at key milestones in the prosecution process.' However, this is imprecise as to what those milestones are and who is responsible for the update, given that in many cases the PPS rely on the PSNI to provide updates, for example, in serious cases or in bail





proceedings. Further, there are examples of aspirational statements rather than firm commitments. Examples include comment regarding proceeding with a lesser charge which states, ‘...PPS will, whenever possible, and where the victim wishes, explain to the victim why this is being considered...’ Inspectors hope that future strategies together with the implementation of the recommendations in this report, may ultimately deal with many of these issues in terms of providing clear and unambiguous commitments, together with unequivocal understanding of responsibilities.

### Information provision and update

6.34 As reported earlier Inspectors heard victims and witnesses derisions regarding the lack of enthusiasm of agencies to share information with them at each stage of the process. The onus was often stated by victims, to be on individuals to make contact with the statutory agencies, and victims expressed their feeling that they felt treated as a file, rather than an individual with needs and emotions. One victim for example stated, “I felt that I was only a reference number...” Another victim stated, “...we have been left feeling that the criminals have all the rights...” Indeed, one legal practitioner told Inspectors, “The system is more case focused than customer focused. There is a desire to make people’s experience as good as it can be, but in reality it can’t be anything other than case focused.”

6.35 In CJI’s 2005 report Inspectors stated, ‘It is important that victims be provided with or can have easy access to quality information about their own case and how it will pass through the system with ownership being clearly identified at each stage.’ Unfortunately, during the course of this inspection Inspectors again found similar evidence of victims having difficulty in obtaining proper feedback. The message heard time and again by Inspectors was that victims needed one single (and reliable) point of contact. However, it is the clear view of Inspectors that the lack of

a co-ordinated approach to objectives, together with a lack of absolute clarity as to roles and responsibilities leaves room for the kind of dissatisfactions which were apparent.

6.36 Arising from evidence of victims experiences elsewhere in this report, and further to the evidence of a disjoin in terms of inter-agency co-ordination, Inspectors welcome the Criminal Justice Board announcement in January 2011 and its commitment to conduct process mapping on the victims journey. However, in addition to specific and detailed process mapping **Inspectors recommend that the broad demarcations of lead responsibility for victim and witness care in the criminal justice system are firmly established and followed as below:**

- **report to decision to prosecute – PSNI; and**
- **decision to prosecute to disposal – PPS.**

This does not absolve others of responsibility, but rather denotes lead responsibility. There will clearly be occasions where, for example, Investigating Officers or FLOs will remain primarily responsible for providing victim updates and information. This should be achieved in liaison with the lead agency.

6.37 In order to further align the Criminal Justice Board intent and Inspectors views, CJI advocate that the VWSG record, using the process mapping system, the victims journey in the criminal justice system. This should include:

- who is responsible at the various stages both for victim updates and victim/witness management;
- a broad demarcation that those Crown Court cases (more serious) should attract an enhanced level of service, including in cases involving a death, a trained police FLO;





- consideration of the support from the VCS for victims and witnesses and how this will be signposted; and
- individual needs of victims and witnesses.

6.38 Process mapping provides a common framework, discipline and language, allowing a systematic way of working and reducing the possibility of system gaps and overlaps. Complex interactions can be represented in a logical, highly visible and objective way. It defines where issues or 'pinch points' exist and a framework to build enhanced services.

6.39 Supporting this recommendation, Inspectors point to the findings of HMIC in their report 'Stop The Drift.' This report pointed to the effects of a growing criminal justice system. The report points out: 'We drew a map setting out the various stages from arrest to final disposal at court. Very quickly we uncovered around 1,000 different steps to deal with a simple domestic burglary, 70 rubbing points (where it was difficult to make progress because one agency/practitioner required information from another), and at least seven occasions on which data had to be transferred. Scores of people were involved.' Inspectors have no reason to doubt that similar processes are involved in Northern Ireland and that detailed process mapping can assist in ensuring that system gaps are identified and rectified.

6.40 The HMIC report also presented the following as one possible solution: '...current criminal justice system activity could be viewed as one process, owned by all the agencies and implemented through collective leadership, with simplicity and fairness at its core. A swift audit of the end-to-end process with a shared objective to reduce bureaucracy would be a constructive start and an encouragement to police officers and practitioners across the system.'

6.41 Process mapping and allocation of roles and responsibilities should move the criminal justice system activity in Northern Ireland

towards a more coherent single process and further towards 'service' rather than 'system'.

6.42 Various, this report refers to a gap between policy and service delivery and to the need for more robust performance monitoring and reporting. **In respect of the gap between policy and practice Inspectors consider that individual agency victim's champions (when appointed) should examine their own regimes in terms of:**

- a focus on outcomes for victims and witnesses;
- the importance and priority given to victims and witnesses issues;
- the performance indicators which underpin points one and two above;
- the quality assurance mechanisms in place to support monitoring/measurement; and
- supervision and monitoring of the care and treatment of victims and witnesses which supports the fourth point above.

### Voluntary sector role

6.43 Despite voluntary organisations having been involved in various workshops, focus groups and some being involved in the VWWSG, in interviews with voluntary organisations some referred to a broad concern that they were not seen as equal partners by the statutory agencies and had to struggle to become involved in policy development work, membership of various working groups and committees. One important voluntary organisation expressed very clear feelings that while the PSNI were willing to engage and learn, taking on board criticisms, others within the criminal justice process were less willing and at times 'arrogant'. Inspectors note that the current Strategic Action Plan incorporates the following action, 'To develop networks to capture victims' views on initiatives which are at the development stage and ahead of any formal



decisions being taken.’ This is clearly a welcome development which will require constant attention. It remains vitally important that mechanisms are developed in which victims can provide a constructive challenge to the criminal justice system.

## One Stop Shop?

6.44 In their 2005 report Inspectors outlined the Government strategy to provide a nationwide network of witness and victim support units and stated, *‘It is important that Northern Ireland is included within the development of such a framework, which would go a long way towards enhancing public confidence. The Criminal Justice Board, in accordance with the Government’s manifesto commitment to build a nationwide network of witness and victim support units that provide practical help and the action required to progress seven of the Criminal Justice Review recommendations (231– 237), should set up a jointly owned Victims and Witnesses Information Unit located within one central function for administrative purposes. The purpose of such a unit would be to provide a single point of contact to the criminal justice system to help any victim or witness with information needs, case progress advice and referral to other bodies established to provide a more specialised support. This would require the development of a ‘central store’ of relevant information maintained within a secure database of victims and witnesses.’* This recommendation became known as the ‘one stop shop’ or, ‘first stop shop’ initiative.

6.45 The recommendation was accepted and was included in the strategic action plans arising, but has not been implemented. As part of a self-assessment exercise Inspectors asked for an update on this matter, and in a response co-ordinated by the DoJ the reasons given were that developments within the PSNI in terms of the R4 Project had overtaken this. However, given that this recommendation was made in 2005 Inspectors are disappointed both that the matter had not been progressed sooner, and

with the DoJ response that the R4 Project had, in essence, replaced it. R4 is currently a single agency (PSNI) response to contact management and will take some considerable further time to deliver.

6.46 The Great Britain Government has introduced specialist WCUs in England and Wales, responsibility for which is with the police and Crown Prosecution Service to support the engagement of prosecution witnesses within the criminal justice process. The project has received £27.1m funding from the Government’s ‘Invest to Save’ initiative as they recognised that without creating a supportive environment witnesses would be more reluctant to come forward, give statements or attend court and as a consequence fewer offences would be brought to justice.

6.47 Inspectors visited a WCU in England and experienced at first hand the practical operation of such a unit. While there are undoubted issues remaining to be resolved and not everything is perfect, it was nonetheless apparent that the WCUs role in co-ordinating and acting as a single point of contact for victims and witnesses were key benefits. Inspectors were also impressed, for example, with the methods of communication and IT systems, incorporating the facility for texting and including the nature of letters. The overall impact of the establishment of the WCU visited has been positive with, for example, a significant (approximately 30%) increase in witness attendance at court.

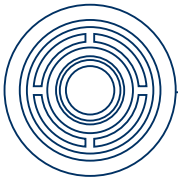
6.48 WCUs also undertake a ‘needs assessment’ to identify any problems that could prevent witnesses giving evidence or attending court. These problems might include child care or transport problems, language difficulties, disabilities or particular concerns such as intimidation. Most importantly, Witness Care Officers in the WCUs co-ordinate the support and services provided to witnesses and keep them informed throughout the case.



- 6.49 In the report of a joint thematic review of victim and witness experiences in the criminal justice system<sup>23</sup> it was stated ‘prior to the setting up of WCUs pre-trial witness care was limited. Although responsibilities for victim and witness care at a local level were shared across the criminal justice agencies they were not necessarily co-ordinated and there was no local system wide management of victim and witness care on a day by day basis. Whilst police witness warning teams were responsible primarily for notifying witnesses that they were required to attend court and for the provision of basic information, it is accepted that the level of care provided at this time needed to be improved. Considerable progress has been made since this time and the general level of service provided to prosecution witnesses has improved significantly. The setting up of dedicated WCUs has been central to this. These, together with a range of other initiatives to improve victim and witness care over recent years, have contributed to a cultural shift. There is now a far greater awareness and appreciation of the requirement to consider the needs of victims and witnesses at all stages of the criminal justice process.’
- 6.50 Inspectors heard in a number of quarters during their fieldwork, disappointment that the one stop shop concept had not been pursued. Similarly, others felt that the concept was now in effect dead, and were content to see it so. Of course, finance could be the most significant challenge to such a concept, but Inspectors would nonetheless encourage work to establish similar units in Northern Ireland and to realise the longer term benefits against the costs of the current piecemeal and un-coordinated approach. Inspectors also felt that some current objections were not focused on the goal of delivering a seamless ‘end to end’ service for victims and witnesses, but rather on a more narrow view that the challenges could not be overcome from a single agency perspective.
- 6.51 In England and Wales, the report of a joint thematic review of victim and witness experiences in the criminal justice system<sup>24</sup> found a general level of service provided to prosecution witnesses, as well as witness attendance rates, has improved significantly. A key factor in the improvement had been the establishment of over 150 dedicated WCUs across England and Wales, jointly staffed by the Police and Crown Prosecution Services. In addition, the Victim’s Codes and Witness Charter in England and Wales set out clearly what victims and witnesses can expect. Unfortunately, Inspectors found that in Northern Ireland some of these key landmarks were absent and this leaves victims and witnesses confused as to what they should expect from the criminal justice system in Northern Ireland on the one hand, and those policies available in England and Wales. This matter is underscored by VSNI who have stated in their Strategic Action Plan 2008-11: ‘The negative gap between the rights of victims and witnesses within the Criminal Justice process in Northern Ireland compared to Scotland, England and Wales will need to be bridged.’
- 6.52 Bearing in mind the improvements made elsewhere **Inspectors recommend the reconstituted VWSG oversee the establishment of WCUs in Northern Ireland but led by the PPS and using the existing CLTs as the core basis for delivery. Inspectors consider that an amalgam of PPS CLTs, elements of the PSNI R4 model (in terms of victim contact and updating), NICTS CPOs and VSNI can provide a vehicle to achieve a WCU (‘one stop shop’) facility which will significantly enhance the experience of victims and witnesses.** Of course, this will mean an element of co-location, IT development, information and cost sharing. Despite these and other potential challenges such as ‘independence’, the complexities must not

23 HMCPSP, HMICA, HMIC (2009) Report of a Joint Thematic Review of Victim and Witness Experiences in the Criminal Justice System, London: Criminal Justice Joint Inspection.

24 Ibid.



be regarded as insurmountable. As an interim objective, this project must examine ways in which closer working and greater co-operation and co-ordination in the working of the above can be achieved in order to benefit victims and witnesses.

6.53 While CJI are not in a position to provide detailed costings for this recommendation, this should be regarded as an 'invest to save' initiative with significant long-term confidence and other benefits to be realised. However, Inspectors are aware of an independent consultative report in 2006 which summarised the benefits to the criminal justice system of the overarching 'No Witness No Justice' project which delivered WCUs. This indicated a two-one benefit ratio and adjusted cost savings of some £2,000,000 per annum.<sup>25</sup> The report of the joint thematic review, for example, also highlighted the outcome of this independent consultancy on the establishment of the No Witness, No Justice initiative which concluded that it was:

- delivering benefits in excess of its costs at or above the levels claimed in its original business case; and
- the benefits were capacity releasing (for example, time released to undertake other tasks) not cash releasing.

6.54 Those charged with establishing WCUs could, in the first instance, incorporate:

- the benefits of applying the WCU model in Northern Ireland;
- the precise nature of the duties to be fulfilled by WCUs;
- whether there are any particular adaptations or improvements that could be made to the practice of WCUs in England and Wales;
- determine line management responsibilities for all staff; and

- determine precise resource and cost implications.


6.55 Various in this report Inspectors have referred to the need to provide targeted and victim focused responses. The previous Victims' Commissioner for England and Wales, Louise Casey has highlighted similar issues and stated: *'...particularly for serious and violent crimes, victims should be guaranteed help – to be supported through an often lengthy, convoluted and intimidating legal process and, subsequently, to overcome the impact of that crime or cope with the consequences of it.'* And she continued: *'In this austere financial climate, the reality of this is that the system needs to look again at the services it currently offers and decide whether they should continue to be available to all, when we know that 80% of victims do not want or need help, while others are obviously in great need of help.'*<sup>26</sup>

6.56 Similarly, all the agencies who have a role to play in supporting victims should examine carefully the targeting of services at those most in need, rather than offering blanket services where they may neither be needed nor wanted. A greater assessment of the delivery of value for money is required, alongside the needs and views of victims themselves. Some of the ways this can be achieved are:

- by examining the implementation of WCUs to Northern Ireland; and
- the PSNI should specifically examine how an initial needs assessment can be built into the contact with victims and witnesses. This will assist in a number of areas not least of which is identifying and highlighting:
  - those most in need of support and assistance;
  - early consideration of special measures, where appropriate;

<sup>25</sup> No Witness, No Justice: Sustainability Review, Final Report, June 2006, Avail Consulting.

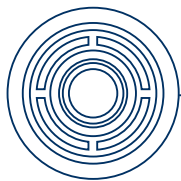
<sup>26</sup> Louise Casey, Victims Commissioner: The poor relation - victims in the criminal justice system, 20 July 2010.

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- providing both VSNI, the NSPCC and the PPS with an early indication of the needs, concerns and issues surrounding individual witnesses; and
  - linking needs assessments with the work of WCUs.

6.57 Mr Keir Starmer, the Director of Public Prosecutions for England and Wales, has variously referred to changes in the criminal justice process and to the development from 'system' to 'service'. He said: *'...we need to recognise that we have developed a criminal justice system, when what we need is a criminal justice service. A system can all too easily become process-driven. A service is about standards and should focus on protecting the public by dealing efficiently and effectively with criminal conduct while respecting and protecting the human rights of all concerned.'*<sup>27</sup>

<sup>27</sup> [http://www.timesonline.co.uk/tol/comment/columnists/guest\\_contributors/article6723781.ece](http://www.timesonline.co.uk/tol/comment/columnists/guest_contributors/article6723781.ece).

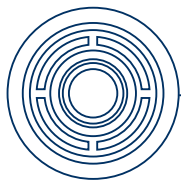






# Appendices







# Appendix 1: Terms of Reference

## Introduction

In January 2005 Criminal Justice Inspection Northern Ireland (CJI) commenced a cross cutting thematic inspection into the *'Provision of Care for Victims and Witnesses within the Criminal Justice System in Northern Ireland'*. The aim of the inspection was to ensure that effective mechanisms were in place to increase the confidence of victims and witnesses so that they would fully participate within the criminal justice system in Northern Ireland. It was envisaged that if the best possible care and attention was afforded to victims and witnesses, together with good support systems, then more people would voluntarily come forward to help achieve good outcomes which would ultimately help protect society in general.

Based on the inspection findings, a report was published by CJI in July 2005 which made a total of 37 recommendations.

As part of CJI's approach to inspection a follow-up review to assess progress with the implementation of these recommendations was conducted in March 2008. In terms of strategic oversight, that review found as follows: *'The July 2005 report made a total of 37 recommendations. Based on the evidence submitted, interviews with key stakeholders and other research Inspectors have established that 25 of the recommendations have been achieved. The remaining 12 have not yet been satisfactorily achieved.'*

This further thematic inspection and follow-up review forms part of the CJI 2010-2011 inspection programme. It seeks to revisit the relevant issues. It will consider any further additional recommendations which meet the aim of increasing the confidence of victims and witnesses in the criminal justice system. The current inspection hypothesis is that the 'end to end' process is and remains the only meaningful assessment of victims and witnesses experiences of the justice system.

Preliminary research has identified the principal strategic documents affecting victims and witnesses in Northern Ireland as:

- 'Bridging the gap between needs and service delivery a new five year strategy to improve criminal justice services to victims and witnesses of crime in Northern Ireland.' Published by CJSNI (undated); and
- 'A Guide to Northern Ireland's Criminal Justice System for Victims and Witnesses of Crime.' - DoJNI, May 2010.

Individual key criminal justice agencies have separate policies in respect of victims and witnesses. Among these are:

- the PPS Victims and Witnesses Policy published in March 2007;
- the PSNI, Policy Directive 2005-06 'Dealing with Victims and Witnesses', implemented 10 May 2006; and
- the NICTS Victims and Witnesses Policy issued March 2006.

It is recognised that other Criminal Justice Agencies have important roles to play and have their own policies, procedures and schemes, which, will also be considered. This includes, for example, the NIPS administered Prisoner Release Victim Information Scheme and the PBNI Victim Information Scheme.



CJI has conducted preliminary research and plan to undertake further research, consultation and fieldwork with the agencies by the beginning of September 2010.

## Scope and Definition

The aim of the inspection:

- to determine and assess the mechanisms, policies and practice in place for the care and treatment of victims and witnesses within the criminal justice system in Northern Ireland and to make appropriate recommendations to deliver improved experiences for victims and witnesses. The inspection recommendations will take account of best value and the increasingly difficult financial climate, balanced against improving the experience of victims and witnesses.

The fundamental focus and objectives for this follow-up inspection are as follows:

- determining the scope of progress on the recommendations of the CJI inspection of July 2005 and its first follow-up inspection of February 2008;
- assessing progress against the criminal justice systems' five-year strategy 'Bridging the gap between needs and service delivery';
- assess the current effectiveness of strategy, policies, procedures and processes used in dealing with victims and witnesses;
- consider the effectiveness of current processes to ensure that confidence in the criminal justice system can be enhanced;
- stakeholder consultation in order to determine the scope of change and the current experience of victims and witnesses;
- best practice drawing comparisons with other jurisdictions such as those in England and Wales, Scotland and the Republic of Ireland;
- review the inter-agency working, service provision and available support for victims and witnesses within the criminal justice system; and
- consider further recommendations, if any, in order to deliver improved experiences within the criminal justice system for victims and witnesses, thus helping to engender confidence in the criminal justice system.


The inspection framework will follow accepted CJI practice with the three main strategic elements as follows:

- strategy and governance;
- delivery; and
- outcomes.

Constants in each of these areas are:

- equality and fairness; and
- standards and best practice.





This inspection will specifically identify the statutory and procedural roles and responsibilities currently operated in respect of victims and witnesses by the main criminal justice statutory and voluntary agencies. The inspection will focus on work with the:

#### STATUTORY SECTOR

- Police Service of Northern Ireland;
- Youth Justice Agency;
- the Northern Ireland Courts and Tribunals Service; and
- the Public Prosecution Service for Northern Ireland;

#### VOLUNTARY & COMMUNITY SECTOR

- Victim Support Northern Ireland;
- NSPCC;
- wider consultation and liaison with the voluntary and community sector; and
- wider consultation with victims and witnesses.

Contacts with each agency and key stakeholders will be agreed. The purpose is to liaise with the Lead Inspector and provide an overview of current systems in place, agree legislative and procedural references, and identify any links to objectives and associated targets, sources of management information, supply of documentation and help to co-ordinate a specific timetable for the fieldwork.

The scope of this thematic inspection is focusing on inter-agency working within the criminal justice system and with other key partners to facilitate the co-ordinated or 'joined up' management of victims and witnesses within the entire criminal justice system.

### Methodology

The following methodology is proposed.

#### ***Research and review of documentation***

A full literature review will be conducted by CJI during July/August. Each agency will be asked to supply CJI with all relevant documentation including strategy documents, action plans, reports, protocols and relevant management information by mid-July. Stakeholders will also be asked for submissions by mid-August.

#### ***Hypothesis formulation***

Hypothesis formulation will take place after the relevant documentation is received from the agencies and stakeholders have been reviewed.

#### ***Fieldwork***

The main inspection fieldwork is scheduled to occur during September/October 2010. This will be conducted in three main phases as follows:

- Phase I - victim/witness consultation and voluntary sector/community engagement;
- Phase II – statutory agencies and service deliverers; and
- Phase III – strategy and governance arrangements.



CJI will agree with each stakeholder an outline programme detailing dates, times and people. Fieldwork will consist of interviews with appropriate individuals or staff at various grades and an examination of appropriate documentation including policies, records, files and management information. Stakeholder consultation in order to determine the scope of change and the current experience of victims and witnesses will be central to the inspection.

## Analysis and report writing

Analysis of research, fieldwork and other material will facilitate the development of emerging findings which will provide a structure for drafting the follow-up inspection report. Findings will be discussed with the agency contacts to clarify understanding. CJI will circulate a draft inspection report for factual accuracy checks in December 2010.

## Proposed CJI Schedule

### Outline Timetable – 2010

Victim & Witness Care	July	August	Sept	Oct	Nov	Dec	Jan-11	Feb-2011
Preparation								
Research								
Hypothesis								
Fieldwork								
Analysis & Report								
Assembly Recess								
Final Rpt & Briefings								



## Appendix 2: Inspection methodology

### Desktop research

The inspection commenced with desktop research of literature and guidance documentation which was reviewed in relation to both the policies of the main criminal justice agencies and the wider application of practice for victims and witnesses. Among the literature reviewed were the following:

- Bottoms, A and Roberts, J 2010, *Hearing The Victim, Adversarial Justice*, Crime Victims and the State: A need for re-balancing?, Devon, Willan Publishing.
- Sixth Report of the Justice Oversight Commissioner, The Rt. Hon. The Lord Clyde, June 2006.
- Victims and Witnesses: Providing Better Support, Audit Commission, November 2003.
- The Code of Practice: A Guide for Victims of Crime, Office for Criminal Justice Reform, July 2009.
- Fairness and Equality in the CJS: Toolkit to help Local Criminal Justice Boards increase the confidence of the Black and Minority Ethnic (BME) communities they serve, Home Office/CPS/Department for Constitutional Affairs, December 2005.
- White Paper: Justice for All, Presented to Parliament by the Secretary of State for the Home Department, the Lord Chancellor and the Attorney General by Command of Her Majesty, July 2002.
- Consultation on a Revised Code of Practice for Victims and Witnesses of Crime, Northern Ireland Office Confidence Unit, August 2009.
- Review of the Criminal Justice System in Northern Ireland, Her Majesty's Stationery Office, Norwich, March 2000.
- Listening to Victims and Witnesses: Guidance for Local Criminal Justice Boards and their Partners, Ministry of Justice, November 2009.
- Agreement at Hillsborough Castle, 5 February 2010.
- Stop The Drift: A focus on 21st-century criminal justice, HMIC, November 2010.
- Report of a Joint Thematic Review of Victim and Witnesses Experiences in the Criminal Justice System, HMCPSI/HMICA/HMIC, May 2009.
- Ending the Justice Waiting Game: A plea for common sense, Commissioner for Victims and Witnesses Louise Casey, November 2010.
- The poor relation - victims in the criminal justice system, Commissioner for Victims and Witnesses Louise Casey, July 2010.
- Measuring up?: Evaluating implementation of Government commitments to young witnesses in criminal proceedings, Joyce Plotnikoff and Richard Woolfson, NSPCC, July 2009.
- No Witness, No Justice: The National Victim and Witness Care Programme, Home Office, 2004.
- Redefining justice: Addressing the individual needs of victims and witnesses, Victims Champion Sara Payne, November 2009.
- Victim Personal Statements: A guide for police officers, investigators and criminal justice practitioners, Office for Criminal Justice Reform, October 2009.
- United Nations General Assembly, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power A/RES/40/34, 29 November 1985, 96th plenary meeting.

A literature review was also conducted by CJI with key agencies being asked to supply CJI with all relevant documentation, including strategy documents, action plans, reports, protocols and relevant management information.

All the above were used also to inform interview questions during the fieldwork phase.



## Fieldwork

Fieldwork during the course of this inspection was conducted in three main phases as follows:

- Phase I - victim/witness consultation and voluntary sector/community engagement;
- Phase II – statutory agencies and service deliverers; and
- Phase III – strategy and governance arrangements.

The questions used during the fieldwork for this inspection were informed by the areas of investigation undertaken during desktop research. The agencies were additionally asked to ‘self-assess’ against the outstanding recommendations from the 2005 CJI report.

A number of focus groups and unstructured one to one interviews were conducted with a range of personnel within the relevant agencies. Unstructured interviews were also conducted with stakeholders who had a key interest in victims and witnesses.

Representatives from the following areas were interviewed during the fieldwork:

## Stakeholders

- Children’s Law Centre, Director;
- Women’s Support Network;
- Women’s Aid, Director and focus groups;
- Northern Ireland Housing Executive;
- NEXUS Institute, Director;
- VSNI Chief Executive, Operations and Policy Directors;
- Voice of Young people in Care (VOYPIC), Director;
- Chinese Welfare Association, Director;
- NSPCC, Assistant Director;
- Barnardos, Director;
- Include Youth, Director and focus group of young people;
- The Rainbow Project;
- NICEM;
- NICVS, Commissioners and focus group;
- Northern Ireland Ombudsman;
- Committee on the Administration of Justice; and
- Northern Ireland Law Commission

*\*N.I. Human Rights Commission provided written documentation for inspectors to consider.*

## Agencies

- Compensation Agency;
- NIPS (PRVIS Manager and staff);
- Youth Justice Agency;
- PSNI Criminal Justice Department;
- PSNI Focus Groups;
- PSNI Head of Training, Head of Organised Crime;
- PSNI District Commanders;
- PSNI ACC Criminal Justice (and Criminal Justice Board ‘victims’ champion’);
- PPS; and
- PBNI.



## Others

- NI Policing Board;
- OPONI Directors;
- Skills for Justice;
- Chair of Criminal Justice Board;
- Chair VWSG;
- N.I. Bar Library representative;
- VWSG meetings;
- NICTS visits to courts at Enniskillen, Laganside, Omagh and Old Townhall;
- NICTS Case Progression Officers; and
- PPS: High Court and International, CLTS, Prosecutors focus groups, Regional Prosecutor, Senior Prosecutors and Prosecutors.

In addition, an Inspector attended the third national victims and witnesses conference, London on 22 October 2010.

Stakeholder consultation and engagement with victims and witnesses in order to determine the scope of change and the current experience of victims and witnesses was central to the inspection. To that end, Inspectors conducted a voluntary survey asking questions of victims and witnesses. The survey was conducted in a variety of ways including 'on-line', by post and by telephone. It was advertised in the three Northern Ireland daily newspapers, on the CJI website, was signposted by a number of VCS agencies and received some media attention. While not excluding any category of respondent Inspectors highlighted their desire for victims and witnesses to 'serious crime' to come forward and participate. A total of 60 responses were received and many of these were indeed assessed to be in the 'serious crime' category.

## Case File Review(s)

A review of computerised PSNI crime reports (NICHE RMS) was undertaken to assess the level of victim update and recording. This entailed Inspectors randomly selecting at least two cases from each of the eight police Districts.

Further, a review of 20 PPS case files was undertaken by Inspectors to assess the timeliness and content of update letters to victims.

## PSNI

A total of three focus groups comprising officers from Constable to Inspector and from a range of disciplines were conducted.

## PPS

Inspectors conducted a number of meetings with Prosecutors from various PPS regions and across both Magistrates and Crown Court cases. In addition, a number of meetings were held with PPS policy owners, with the Head of the High Court & International Section, Head of the Quality Assurance Unit a recent Regional Prosecutor and a number of Senior Prosecution Service staff.



# Appendix 3: Practice Direction issued by the Lord Chief Justice



**PRACTICE DIRECTION 3/2011**

**IN THE CROWN COURT OF NORTHERN IRELAND**

## **LISTING OF TRIALS, AGREEMENT OF NON-ESSENTIAL WITNESSES AND OBTAINING OF WITNESS AVAILABILITY**

### **Introduction**

The purpose of this Practice Direction is to:

- ensure that both the prosecution and the defence take adequate and prompt steps to check witness availability so as to ensure that avoidable adjournments, and hence avoidable delay, can be prevented;
- improve arrangements for the notification of witnesses and checking witness availability in order to avoid witnesses being notified unnecessarily that they will be required to give evidence; and
- ensure the early agreement of non-essential witnesses whose evidence may be read at trial.

As part of this process Crown Court offices will no longer allocate stand-by or trial dates before arraignment.

**NOTE.** The target times set by (Practice Direction 5 of 2006) are unaffected.


1. This direction specifies the procedure to be followed for the early agreement of non-essential witnesses, the listing of trials and the obtaining of witness availability.
2. A defendant will be arraigned within 6 weeks of being sent for trial.
3. After a defendant has been sent for trial, and in advance of the arraignment date, the PPS will send to the defence a list of witnesses whose evidence it is suggested can be agreed.



4. Where a defendant enters a not guilty plea at arraignment, the judge will determine whether or not the case is:
  - (a) suitable for an early trial; or
  - (b) not suitable for an early trial as there are issues which could require time to resolve (for example screening, PII, disclosure, expert witness issues).

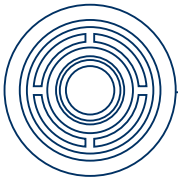
**Cases suitable for early trial**

5. Where the case is suitable for early trial the judge will, at arraignment, fix the stand by and trial dates for a date within the next 12 weeks.
6. The judge will, at arraignment, ask the defence which witnesses, from the list which they have already received from the PPS or otherwise, can be agreed.
7. Following arraignment, both the PPS and the solicitor(s) for the defendant(s) will **immediately** notify all witnesses whose attendance is required at trial of the stand by and trial dates. The initial contact will be by telephone call or email on the day of arraignment, or the following working day at the latest. This initial contact will be followed up, for prosecution witnesses, by:
  - (a) in the case of civilian witnesses by a requirement to attend served by the PSNI;
  - (b) in the case of expert witnesses contact by the PPS or the PSNI as appropriate; or
  - (c) in the case of police witnesses by the PPS or PSNI as appropriate.
8. Where a witness does not confirm within five working days of the delivery of the requirement to attend, or in respect of defence witnesses within five working days of being notified, that they will attend court, an application for a witness summons will be made **immediately** by the party requiring the attendance of the witness(es).
9. Confirmation of attendance at court will be on the basis of receipt of a pro-forma reply or direct contact with the witness from civilian prosecution witnesses, or in the case of defence witnesses direct contact with the witness to confirm their attendance.
10. The judge will list the case for a review hearing 2 weeks after the arraignment where the stand by and trial dates will be confirmed or varied in light of the PPS and defence information about witness availability.

- 
11. Where it becomes apparent that the date may have to be varied, both the prosecution and the defence will come to the review hearing with witness availability for a further 12 week period starting with the original trial date, or will have furnished the witness availability to the case progression officer in advance of the first review hearing if possible.

**Cases not suitable for early trial**

12. At arraignment, when a judge is determining whether or not a case is suitable for an early trial, the judge will determine this on the basis that the case involves issues which could require time to resolve, for example screening, PII, disclosure, expert witness issues etc.
13. At arraignment, the judge will ask the defence which witnesses, from the list which they have already received from the PPS or otherwise, can be agreed.
14. The judge will determine which issues require resolution, and get indicative timescales from the representatives when the issues are likely to be resolved.
15. The judge will then timetable a hearing for all issues to be resolved. This hearing should be within 4 – 6 weeks of arraignment. The parties should attend with the availability of the witnesses required for trial, and, if possible, the judge will fix the stand-by and trial dates at that hearing.
16. If it has not been possible to fix the stand by and trial dates at arraignment, then once the issues in the case have been resolved, or the judge is satisfied that they can be resolved by the trial, the judge will fix the stand by and trial dates for a date within the next 12 weeks.
17. Once the dates have been fixed the PPS and the solicitor(s) for the defendant(s) will **immediately** notify all witnesses whose attendance is required at trial of the stand by and trial dates. The initial contact will be by telephone call or email on the day on which the date is fixed , or the following working day at the latest. This initial contact will be followed up, for prosecution witnesses by:
- (a) in the case of civilian witnesses by a requirement to attend served by the PSNI;
  - (b) in the case of expert witnesses contact by the PPS or the PSNI as appropriate; or
  - (c) in the case of police witnesses by the PPS or PSNI as appropriate.



18. Where a witness does not confirm within five working days of the delivery of the requirement to attend, or in respect of defence witnesses within five working days of being notified, that they will attend court, an application for a witness summons will be made immediately by the party requiring the attendance of the witness(es).
19. Confirmation of attendance at court will be on the basis of receipt of a pro-forma reply or direct contact with civilian prosecution witnesses, or in the case of defence witnesses direct contact with the witness to confirm their attendance.
20. Where it becomes apparent that the date may have to be varied, both the prosecution and the defence will come back before the court with witness availability for a further 12 week period starting with the original trial date, or will have furnished the witness availability to the case progression officer in advance, if possible


**COMMENCEMENT and EXTENT**

This Practice Direction will come into effect on 5<sup>th</sup> September 2011.

This Practice Direction applies to the County Court Division of Belfast, and the County Court Division of Antrim.

Dated this 31<sup>st</sup> day of August 2011

The Right Honourable Sir Declan Morgan  
Lord Chief Justice of Northern Ireland



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