

Briefing Paper for the Northern Ireland Justice Committee

Prepared by the Commissioner Designate for Victims of Crime Office.

Executive Summary

This paper provides Justice Committee members with an introduction to the role of the Commissioner Designate for Victims of Crime, an overview of her findings during her time in post, her strategic priorities and areas of suggested action to improve the experience and confidence of victims of crime in Northern Ireland.

During her term, the Commissioner Designate for Victims of Crime has identified three strategic priorities:

- Delay the length of time it takes for a case to progress through the criminal justice system has a devastating impact on victims of crime;
- Data with separate but interconnected agencies, there is a serious lack of useful data captured in the criminal justice system, especially with regards to victims and outcomes for victims;
- Disclosure the current safeguards protecting the privacy rights of victims, especially victims of sexual crime, are not strong enough to adequately protect those rights. Existing safeguards are not being consistently implemented.

The paper identifies a number of issues which need to be addressed to improve the experience of victims of crime in Northern Ireland.

This includes legislative changes, for example placing the office on a statutory footing to give it necessary powers and new laws to protect the privacy of victims of sexual crime.

It also identifies other issues including the need for cultural changes, the embedding of timely and comprehensive individual needs assessments and a need to get "back to basics." Underpinning all of the issues raised is a call for adequate resourcing for the justice system to mitigate against further deterioration and enable strategic reform.



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1. Background to the role of Commissioner Designate

- 1.1. The Commissioner Designate was appointed by the Minister of Justice in March 2022 to be an independent voice for victims of crime. It was not possible to legislate to put a Victims of Crime Commissioner on a statutory footing within the then Northern Ireland Assembly mandate (2017-22), therefore a non-statutory Victims of Crime Commissioner Designate was initially appointed. Geraldine Hanna took up the post of Victim of Crime Commissioner Designate on the 13th June 2022. She has been appointed for a three year term with a possible one year extension.
- 1.2. The overarching purpose of the Commissioner Designate is to represent the needs and interests of all victims of crime and help drive systemic improvements across the criminal justice system. The main responsibilities of the Commissioner Designate for Victims of Crime (CVOC) are to:
 - Provide a voice for all victims of crime:
 - Promote and encourage best practice;
 - Review the adequacy and effectiveness of law and practice;
 - Promote the Victim Charter and review its operation and delivery by service providers;
 - Direct complaints and monitor outcomes.
- 1.3. The Commissioner Designate represents all victims of crime. However the role also gives specific attention to victims of domestic and sexual abuse and victims of hate crime.
- 1.4. The Commissioner Designate for Victims of Crime Office (CVOCO) receives funding from the Department of Justice (DoJ) and falls within the DoJ accounting boundary. The Commissioner is independent from government and is it anticipated that the intended statutory role of Commissioner for Victims of Crime will establish the office as an Arm's Length Body.
- 1.5. CVOCO initially began operation with three staff supporting the Commissioner Designate. This staffing complement currently sits at five staff members. The annual budget for the office in 2023/24 is £453,444.

1.6. Key Statistics

- In 2022/23 there were 111,571 crimes recorded in Northern Ireland. 69% of all crimes had a direct person victim.¹

¹ Trends In Police Recorded Crime 1998-99 to 2022/23 (psni.police.uk)



- In 2022/23, violence against the person offences was as its highest level recorded to date, which included an increase in the amount of sexual offences reported to the PSNI, with 4,232 reported in that year.
- It is generally estimated that approximately 50% of crime is not reported to the police and many individuals do not readily identify themselves as a victim.
- 1.7. These statistics provide high level crime data but we should not forget that behind each number is as least one victim and family members who have been deeply impacted by both the crime itself and their subsequent engagement with our justice system.

2. Victim Charter

- 2.1. The Victim Charter outlines a range of entitlements that victims of crime can expect to receive from a range of service providers. The Charter's stated purpose is 'to ensure that victims of crime received appropriate information, support and protections and are able to participate in criminal proceedings'.
- 2.2. Despite being enshrined in statutory legislation in 2015, we still do not have processes to monitor individual agencies compliance with this charter. The Criminal Justice Inspection for Northern Ireland's (CJI) report on the treatment of victims and witnesses in 2020 reported 'a strong sense of apathy and disconnection by many organisations providing support to victims when asked about the ongoing influence and contribution of the Charters.'
- 2.3. The lack of knowledge amongst professionals and understanding of their responsibilities towards victims is reflected in the engagement that the Commissioner Designate has had with victims of all types of crime. Victims continue to report issues with lack of communication and updates, disrespectful treatment and a failure to assess their needs as key issues which negatively impact on their experience of the system.
- 2.4. The Commissioner Designate welcomes the recent advertising campaign by the DoJ to raise awareness of these rights, but more must be done by criminal justice agencies to deliver those rights. As part of this effort she is working with agencies to map what compliance data is currently being captured, what can be developed in the short term and what gaps remain which need to be addressed by future IT developments.
- 2.5. The Victim Charter lays out the rights that victims of crime have when dealing with the criminal justice system, but we are failing to deliver on those rights.



We must recognise that the needs of victims of crime span further than our criminal justice system. Future development of this Charter must consider the broader cross-departmental obligations that government has towards victims and ensure that the Victim Charter is strengthened through the inclusion of victim rights when engaging with all relevant public bodies beyond justice.

- 3. 2022-2025 Strategy and Key Priorities of Commissioner Designate
- 3.1. Our strategy for 2022-2025 sets a vision for
 - 'A society where all victims of crime feel valued and have rights to protection, participation, support and redress.'
- 3.2. Despite many improvements over recent decades, victims of crime continue to face challenges throughout their engagement with the criminal justice system. From the moment of reporting the crime to the police, victims often encounter difficulties such as inadequate communication, concerns about personal safety, feelings of disempowerment, lengthy delays, and feeling the system is stacked against them with no-one to advocate for their interests or needs.
- 3.3. With no recognition as a party to proceedings, they are effectively treated like a witness in their own crime, often waiting several years for a trial in which they are the bystander with no voice or influence. As one victim puts it, 'you have no voice or no choice in the courtroom'

2022-25 Strategic Priorities

During her term, the Commissioner Designate has identified three strategic priorities where she would like to see improvement: **Delay, Data and Disclosure.**

Delay

- 3.4 The Northern Ireland Courts and Tribunal Service (NICTS) are currently working at increased capacity to address the Covid-19 backlog with latest figures suggesting it is likely to be April 2024 before we manage to reduce the backlog to pre-Covid levels.
- 3.5 There have of course been numerous work streams in place over the last two decades to address this issue as well as numerous reports from bodies such as the Northern Ireland Audit Office (NIAO) and the CJI which indicate that limited progress has been made. The pace of change however has been painfully slow with initiatives such as Committal Reform, which was debated on the Assembly floor in 2015, yet to reach phase 2 of implementation.



- 3.6 Whilst public understanding of the justice system may be limited, the length of delay affecting cases in Northern Ireland has been widely publicised. Efforts to improve performance however is less understood with the public often having to rely on media interest or launch of research reports to be appraised of how justice is performing.
- 3.7 The Commissioner Designate recognises that the Criminal Justice Board is focused on delivering a delay reform plan. She would like to see this reform plan published on the DoJ website alongside associated performance metrics and outcomes. This will help increase public understanding of agreed actions and progress made helping to ensure transparency and accountability.

KEY RECOMMENDATION

THE CRIMINAL JUSTICE BOARD SHOULD PUBLISH THEIR DELAY REFORM PLAN WITH ASSOCIATED METRICS.

Data 'What gets measured, gets done'

- 3.8 Each criminal justice agency has its own case management system set up to address its own data needs. These systems were never set up with the victim in mind. It is unsurprising therefore that victims often feel like an afterthought given the lack of attention we invest in capturing their needs and outcomes.
- 3.9 Data collection varies across each agency and what is captured is often of such poor quality that it hinders understanding of the problems victims' face and the process failures behind these. Data is often recorded in different ways across the agencies and is unable to be broken down by victim's personal characteristics such as age, disability, vulnerability etc.
- 3.10 Current attrition data captures the numbers of victims withdrawing support for the prosecution however it fails to capture the reasons why. We have no unique victim identifiers which makes it impossible for us to track where victims may appear across the system without undertaking a manual exercise. This lack of detail makes it impossible for policy makers to demonstrably improve the victim experience.
- 3.11 Efforts to improve the co-ordination and exchange of necessary data across the agencies led to the introduction of Causeway, however this system yet again does not adequately capture the outcomes for victims as they move through the criminal justice system.



3.12 If we are serious in our desire to have victims at the centre of a justice system that is trauma-informed, we must add to our existing metrics of efficiency and prosecution rates and start to monitor the victim experience, compliance with their rights and the impact of these rights on victim's well-being.

KEY RECOMMENDATION

THE CRIMINAL JUSTICE BOARD SHOULD INVEST IN AN IT SOLUTION THAT ENSURES A SINGLE VICTIM DATA SET ACROSS THE SYSTEM ALLOWING US TO CAPTURE KEY METRICS AND OUTCOMES

Disclosure

- 3.13 The disclosure of relevant material is an essential part of a fair trial and must be handled fairly, effectively and justly by all parties.
- 3.14 However, it has been established through a report published by the Information Commissioner Office (ICO) that victims of crime and sexual violence in particular, are often asked to give consent for excessive amounts of their personal data to be handed over.²
 - "The most important people in my life, and even my abuser, could hear all this information without me knowing the details of what was shared...this lack of information about my notes led me to withdraw support for the prosecution." (A victim of sexual abuse who spoke to CVOCO)
- 3.15 Concerns raised with the Commissioner Designate from victims directly and from support organisations prompted the Commissioner Designate's report into this issue. Whilst disclosure impacts on victims of all types of crime, 'A Second Assault The impact of third party disclosure practice on victims of sexual abuse in Northern Ireland' details the devastating impact disclosure is having on victims of sexual crime in Northern Ireland in particular.
- 3.16 The report found that:
 - a) We are not currently complying with our laws and guidance that are in place to govern the third party disclosure process. (CF: Appendix 1)
 - b) Our current law in this area needs to be strengthened to provide greater protection around the privacy rights of victims of crime.

² commissioners-opinion-whos-under-investigation-20220531.pdf (ico.org.uk)



- 3.17 The Commissioner Designate established a working group in February 2024 with representatives from the ICO, key criminal justice agencies, the legal profession and the Lady Chief Justice's office. This group will focus primarily on progressing issues regarding compliance.
- 3.18 Strengthening our laws to ensure greater protection for the privacy rights of victims of all crime needs the commitment of our political representatives. The Law Commission in England and Wales³ has helpfully considered models in place in Australia and Canada that we can learn from. The Commissioner Designate urges the Committee to explore this issue as a matter of urgency in order to address the current chill factor that disclosure is having on victim confidence and engagement with the justice system.

KEY RECOMMENDATION

LEGISLATION GOVERNING DISCLOSURE OF THIRD PARTY MATERIAL IS STRENGTHENED

Commissioner Designate Research Priorities

- 3.19 The office has identified several thematic areas highlighted by victims and victims groups which it is seeking to further explore. The Commissioner Designate:
 - Commissioned Queen's University Belfast (QUB) to conduct a rapid review
 of existing evidence on the 'Experiences and Mental Health Impact of
 Intimate Partner Violence against Men and Boys, published in May 2023.
 This report had led to the commissioning of qualitative and quantitative
 research to explore the impact of intimate partner violence on specific
 cohorts of men and boys in Northern Ireland, initially exploring geographical
 impacts. This report should be published by late Spring 2024;
 - Is currently exploring the use of <u>victim personal statements</u> with a range of stakeholders including individual victims, members of the Judiciary, statutory criminal justice agencies and voluntary sector support organisations;
 - Is working with community and voluntary organisations to explore the experience of victims of domestic abuse with regards to the granting and compliance with <u>Non-Molestation and Occupation Orders</u>.
 - Commissioned QUB to produce terms of reference for a broader research project on the experience of domestic abuse victims at <u>Family Courts</u> - using the voice of children and young people with lived experience to help shape the project.

³ Evidence in Sexual Offences Prosecutions (ESOP) (2023) Law Commission Consultation Paper No.259

⁴ Experiences and Mental Health Impacts of Intimate Partner Violence against Men and Boys: A Rapid Review | Commissioner for Victims of Crime Northern Ireland (cvocni.org)



4 Improving the Experience of Victims of Crime

- 4.1 Beyond the three key strategic priorities identified above, there are a number of other issues that must be addressed to make our criminal justice system truly victim-centred. These are not to be seen in isolation to the issues above, in fact many of them are interrelated.
- 4.2 In order to achieve long-term, consistent improvement **no part of the justice system can be seen in isolation**. While many of the bodies in the system are independent, they are all inter-connected. A move to make a change affecting one will therefore undoubtedly have an impact on the entire system.
- 4.3 We can only improve the criminal justice system for victims of crime if we take a holistic approach. We must also be aware that the responsibility of supporting victims of crime is not just about the criminal justice system. Supporting victims effectively is truly cross-cutting and requires input and work by all government departments and wider society.

Back to Basics

- 4.4 Sadly, many of the individuals who have engaged with the Commissioner Designate have painted a picture of a criminal justice system that is failing to deliver on the basics of victim care.
- 4.5 Despite commitments to place the victim at the centre of our system, the introduction of measures to protect and support victims and the roll out of trauma informed training across agencies, for some victims the experience of our justice system is one which causes further harm and distress.
- 4.6 Examples include poor communication between agencies and the victim, continuing examples of aggressive and inappropriate cross-examination, late, or on the day applications for special measure and failing to refer victims to support services early in the process.
- 4.7 There are a number of recommendations that have been made by CJI on repeated occasions. Worryingly this may indicate a lack of a sense of urgency when it comes to implementing those recommendations. The Commissioner Designate was disappointed to note that the follow up review undertaken by CJI in 2023⁵ into the treatment of victims and witnesses found the ongoing prevalence of a silo mentality where agencies had moved forward alone in respect of certain recommendations.

⁵ Victims and Witnesses: The care and treatment of victims and witnesses by the criminal justice system in Northern Ireland. A Follow-Up Review of recommendation implementation. (cjini.org)



4.8 It is disheartening that rather than being in a place where the system could look forward to continuing improvement, the Inspectorate assessed none of their previous recommendations as fully achieved, with yet more work to be done.
Essentially there remains a mismatch between what we are promising victims of crime and what we are delivering.

Needs Assessment

- 4.9 A key recommendation from the CJI report of 2020 and the follow up report in 2023 is the proposal for a revised service model for the Victim and Witness Care Unit 'with a focus on enhanced provision of care for victims and witnesses in Northern Ireland...to include a Victim and Witness Needs Assessment Service.' The proposed costed model (approx. £0.5 million annually) was approved by the Criminal Justice Board but was subsequently set aside due to budget constraints.
- 4.10 The Commissioner Designate believes that the key building blocks to effective victim care are needs assessment and individual advocacy. Whilst there are many common reactions and needs in the aftermath of a crime, individuals will react differently and their needs will be influenced by a range of factors depending on their individual circumstances.
- 4.11 The best way to determine these needs is to conduct an individual needs assessment which will identify a tailored support plan for the individual. The best way to ensure that their support plan is delivered is to ensure that the victim can have access to their own advocate who can support the individual and advocate on their behalf where necessary.
- 4.12 A model akin to this is currently operating in Quebec. The proposed Northern Ireland needs assessment model, developed in line with the CJI recommendation, could act as a first step in achieving something similar here.
- 4.13 If we are serious in our desire to make the victim more central in the criminal justice system (as committed to in the Northern Ireland Victim and Witness Strategy), then we must build the necessary structures and support systems to enable this. To achieve this vision we must radically reform not only our system but also the traditional attitudes we have often taken to victim support.
- 4.14 Meeting the needs of victims of crime can no longer be a 'nice to have' but instead must become as integral to our thinking and practice as those of the accused.



Culture & Practice

- 4.15 This means that putting victims of crime at the centre of our justice system will require cultural change.
- 4.16 There are many key touch points for a victim whilst a case progresses through the justice process which can significantly impact on their experiences e.g. the forensic examination, police investigation, need for medical care, decision to prosecute, access to mental health care/counselling, need to move home, decision to accept a lesser plea, family care proceedings, verdict and sentencing. While from the outside these look like discrete moments, victims who meet with the Commissioner Designate often view their experiences more of a 'journey' from the crime happening right through to post sentencing and beyond.
- 4.17 This journey is lengthy and therefore runs parallel to their everyday lives and the high and lows that that this brings with it. In retelling their experience, it is clear to see the cumulative effect that organisational failures have had, not only on their justice journey but also on their recovery journey. These impacts often affect an individual's willingness to ever engage or encourage others to engage with the criminal justice system.
- 4.18 Our response to victims' needs remains fragmented both inside and outside the justice system. We must ensure that victim centred policy is embedded within the wider Programme for Government, featuring in the work plans and budgets of all government departments and in particular, Health and Social Care, Communities and Education.
- 4.19 Our response requires collaboration and co-ordination across both statutory and non-statutory services. Government must be cognisant that many of the issues victims face cut across various government departments and this means that a cross departmental approach and funding model is required. This approach has been usefully adopted in the approach taken by the Executive Office in the Ending Violence against Women and Girls Strategy.

Complaints System

4.20 The 'system' as we describe it, is of course not one system but instead made up a series of independent bodies with their own governance and accountability structures. If a victim wishes to complain about the 'system' they are likely to have to navigate at least two of the numerous agencies who have been involved. For many engaging with the Commissioner Designate, this will include the Police Ombudsman for Northern Ireland, PPS, Bar of NI and the Judiciary.



- 4.21 However for victims, these are all interconnected parts of one system. We have to remove the barriers facing victims who have to learn about and navigate a series of independent complaint processes to effectively complain about their experience of the system as a whole.
- 4.22 The Commissioner Designate believes that her office should have the power and resources to act as a single point of contact for victims, enabling her office to receive a victim's complaint and then direct the relevant sections to the agencies involved for them to investigate and respond either directly to the victim or via the Commissioner's Office who can then compile the relevant findings and convey these to the victim. This responsibility would help remove the current burden placed on victims as well as ensuring there is an independent oversight of victim complaints and outcomes which can be used to influence systemic improvements.

Legislative Changes

- 4.23 The Commissioner Designate acknowledges that with a shortened mandate and a number of competing priorities, there will be limited scope for legislative change.
- 4.24 When determining the legislative timetable we must be aware of the additional pressure that legislative change can have on certain parts of the criminal justice system and how this pressure can prevent criminal justice agencies delivering on existing commitments. Any new laws introduced should also come with associated funding to ensure effective implementation.
- 4.25 In the last mandate a number of new laws were introduced that were positive including laws around domestic and sexual violence. This was an important step however the cost of implementation had to be absorbed by an already overstretched system. The Commissioner Designate urges the Justice Committee to consider the implementation costs associated with any new legislation being considered.
- 4.26 From her engagement with victims, the following issues have been raised which would require legislative reform:

Powers to underpin the Commissioner for Victims of Crime Office

4.27 In order for the office of the Commissioner for Victims of Crime to be fully effective, associated powers are required. These can be delivered by putting the office on a statutory footing. The powers of the Domestic Abuse Commissioner and Victims Commissioner in England and Wales as well as the current proposals for a Victims and Witnesses Commissioner progressing



through the Scottish Parliament could helpfully inform this development.

Revision to the Victim Information Schemes

- 4.28 The scheme should be expanded to enable victims of serious violence e.g. Sexual Violence, Domestic Violence and Homicide to be eligible to sign up for information about the imprisonment and release of the perpetrator in relation to other committed offences.
- 4.29 The current absence of such provision in the current scheme leaves victims in a position where they can only find out such information through the media.

Disclosure legislation

4.30 As outlined above and explored in more detail in 'A Second Assault; the impact of disclosure on victims of sexual violence', primary legislation is required to increase the safeguards governing victims' personal information.

Hate Crime

4.31 Following the public consultation on hate crime in 2022, the Justice Minister published her Phase One plan. There is a stream of legislative work which flows from the Marrinan Review into this area and it needs to be progressed. The Commissioner Designate is keen to see work progress as soon as possible to phase in this work, in particular the introduction of a new legislative statutory obligation model to more effectively deal with hate crime cases progressing through our court system.

Interface between Criminal Justice and Health

- 4.32 Our system must do more to support the symbiotic relationship between healthcare and justice. A poor health response to victims will impact on their capability to effectively engage with a criminal prosecution; a justice system that traumatises victims leads to further harm and future health care needs. The lack of effective mental health support available to victims throughout their recovery journey and after a court case has been highlighted by victims.
- 4.33 A number of victims have raised also concerns regarding grave shortcomings with the Serious Adverse Incident Review (SAI) process being conducted by Health and Social Care Trusts in Northern Ireland, particularly where mental health is involved. Victims have highlighted cases where vital information has been allegedly withheld both during reviews and inquests and where there has been a failure to learn lessons and adopt recommendations, resulting in preventable deaths and other serious failings across our Health and Social Care Trusts. Members will be familiar with the findings from the recent



Coroner's Inquest into the Cawdery murders, which highlights this.

4.34 All of this is exacerbated by the absence of Duty of Candour legislation in Northern Ireland. The Commissioner Designate is due to meet with the Department of Health and the Health Minister on these issues.

Sentencing

- 4.35 The DoJ consulted the public on sentencing reform between October 2019 and February 2020 and the former Justice Minister had indicated changes via a Sentencing Reform Bill which could be progressed during the next mandate.
- 4.36 Key sentencing issues raised with the Commissioner Designate include:
 - Sentences passed for most serious crimes do not match the severity of the crime. There is also a perception that there is a disparity between the severity of sentences passed in Northern Ireland compared to England and Wales;
 - Dismay surrounding the length of time prisoners spend on remand. Many victims are distressed when the offender is often free to leave the court on the day of the sentencing on the basis of 'time served';
 - Offence and unfairness felt when offenders are 'credited' with a reduction in their sentence for pleading guilty before the hearing. This has caused particular harm to victims where a 'discount' is given quite close to the trial date or on the day of the trial itself;
 - Calls for increased sentences in certain cases e.g. where an offender refuses to disclose the location of a body or, where the victim was a baby/ young child;
 - The continued control and hurt that can be caused to victims when the court orders the offender to pay compensation to the victim. The Commissioner Designate would like to see court ordered compensation paid directly to the victim by the State. The State can then be reimbursed via an offender payment plan;
 - Free access to Judges' sentencing remarks to victims in Crown Court cases for victims who choose to receive them. The Commissioner Designate would like to see greater access to court transcripts for victims and is hopeful that a cost effective digital solution can be identified to secure this. As a minimum however, victims at the Crown Court should be offered free access to the sentencing remarks delivered by the Judge in their case;
 - The Commissioner Designate's office is currently researching the application of victim personal statements against existing policy. It is likely that this may include a recommendation for government to consider a change in legislation which would enable a victim of crime to read out their personal



statement in court if they chose to do so.

5 Resourcing

- 5.1 The Commissioner Designate recognises that the funding deficits facing all government departments are eye-watering and appreciates that the Justice Committee will have been fully appraised of the pressures currently facing the DoJ. These pressures have been compounded by years of underinvestment and painfully slow reform.
- 5.2 Whilst not as visible to the wider public as our health waiting lists, the human impact of the capacity and resource issues within our justice system is profoundly felt by our most vulnerable victims at their time of most need.
- 5.3 It is felt by the burglary victim who feels disregarded and unsafe as they wait for an overstretched police force to respond; it is felt by the sexual violence victim waiting 9 months for the PPS decision officer to reach their file in order to make a decision on whether or not to prosecute; it is felt by the victim who visits one court before the trial to look around and prepare themselves only to find out the day before the trial that their case has been transferred to a different court location.
- 5.4 Every one of us has the right to feel safe and protected as we live our lives. Every one of us expects our justice system to provide protection, support and redress if we become a victim of crime. However these expectations rely upon our justice system being fit for purpose and adequately resourced in line with need.
- 5.5 Our justice system currently needs resources in order to just stand still. Continued underinvestment will inevitably lead to a deterioration in victim care despite the best efforts of many dedicated individuals working across the system.
- 5.6 Whilst additional funding is not the panacea, without it the system is seeing a deterioration in the treatment of some of our most vulnerable victims of crime and stalling much needed transformational reform.
- 5.7 The Commissioner Designate urges Justice Committee members to support all efforts to ensure that the justice system is adequately funded to address its obligations to victims of crime.

ENDS//

For further information, please contact – office@cvocni.org



6 Appendices

6.1 Appendix 1 – Third Party Disclosure Process – Victim Experience

