



# Victim Personal Statements (VPS)

Analysis of Policy and Practice  
in Northern Ireland

October 2024

COMMISSIONER  
FOR VICTIMS  
OF CRIME

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## Foreword by Commissioner Designate

The Commissioner for Victims of Crime Office (CVOCO) was established to promote best practice and drive improved outcomes for victims within the criminal justice system. It was welcomed by many as a way to help provide a voice for victims of all types of crime. The victim's voice is an essential part of our criminal justice system. For too long, victims have felt side-lined in a process which can often be intimidating and confusing. A system where they have been made to feel like a bystander, a mere witness to a crime committed against them.

The victim personal statement (VPS) was formally introduced in Northern Ireland in 2013. *It should not be confused with the Victim Impact Report (VIR) which is prepared for the court by a medical professional.* The primary purpose of introducing the VPS was to give victims a voice in our criminal justice system. Two years later, with the introduction of the Justice Act (Northern Ireland) 2015, it was placed on a statutory footing and enshrined in the Victim Charter for Northern Ireland.

This report examines how effectively the VPS is being used across our justice system. It seeks to understand whether victims are routinely offered the opportunity to make a statement, how these statements are being used by the criminal justice agencies and, most importantly, whether victims feel the process is meeting their needs.

Our findings reveal a mixed picture. While many victims availed of the opportunity to have their say, others were unaware or unclear about the purpose and impact of the statement. Some victims were denied the opportunity to make a statement and others shared concerns about how their statement was used or referred to in court. The report highlights inconsistencies in how the VPS is offered and most significantly highlights barriers for victims in Magistrates' Court availing of their right to make a statement.

The report also highlights examples of good practice and the profound impact a well-handled VPS can have

– not just for victims, but in informing sentencing decisions and helping offenders understand the consequences of their actions. The recommendations are informed by the feedback of victims and other stakeholders in the process.

Moving forward, it's clear that more needs to be done to ensure that the VPS fulfils its potential as a vital tool for victim empowerment and engagement. These recommendations provide a road map for improvement, calling for clearer processes to improve access to all victims, improved templates to capture victims' views, refresher training and consideration on how to build on the opportunity to capture victims' views at different parts of the process and the introduction of a right for a victim to read their statement orally to the court if they so choose.

Ultimately, the VPS is about giving victims a voice. It is incumbent on us all to ensure that their voice is heard, respected and given due weight at every stage of the justice process. I hope this report will help improve our current VPS process and act as a catalyst for future improvements that increase victims' participation and voice in our criminal justice system. I am extremely grateful to everybody that contributed to the research and would particularly like to thank those victims of crime who gave so freely of their time to share their experiences with us.





# Methodology

A blend of qualitative and quantitative research methods were used to gather data and views to inform this report. The rationale for this was to ensure that any available local or population level data could be enriched with individual experiences and organisational perspectives on victim personal statements and how they operate within the criminal justice system in Northern Ireland.

This research used a variety of sources to gather and analyse data. These are outlined below.

**Desk based research:** This included a trawl and review of a broad range of existing literature – legislation, consultation documents, policy papers, research reports and other articles – on the genesis and evolution of victim personal statements in Northern Ireland as well as how they are used in other jurisdictions.

**Engagement with victims:** This involved one-to-one interviews with 10 victims of crime. It also included gleaned information relating to victim personal statements from meetings the Commissioner Designate held with 12 victims where this issue was one of a number of complaint themes shared.

**Focused Group Discussions:** Two group discussions were arranged, one with staff at the Public Prosecution Service (PPS) and Victim and Witness Care Unit (VWCU) and another with staff at the Police Training College (PTC) at the Police Service of Northern Ireland (PSNI).

**Court Observation:** Three Crown and four Magistrates' Court cases were observed with a focus on sentencing hearings and how VPS were utilised and referenced in the process.

**Interviews with judiciary members:** Face to face interviews were conducted with two Crown Court and two Magistrates' Court judges.

**VPS Support Organisations:** One to one interviews were conducted with advice workers from Victim Support NI (VSNI) (2) and National Society for the Prevention of Cruelty to Children (NSPCC) (1). A one to one interview was also completed with a family liaison staff member at the PSNI.

**Department of Justice (DoJ) Victim & Witness Branch (VWB):** A face to face interview was conducted with a senior staff member in VWB for policy context.

**Northern Ireland Victims And Witness Survey (NIVAWS):** Data from the most recent DoJ report findings were analysed. (This survey does not include victims of sexual offences, domestic abuse or crimes involving a fatality).

**CVOCO Victim Survey:** VPS related data was collated and analysed from the first comprehensive online victim survey for Northern Ireland conducted by CVOCO between September 2023 and March 2024.

Interviews were also requested with the legal profession via the Law Society NI but nobody came forward.



## Summary of Recommendations

This report identifies a number of potential improvements to policy and practice regarding VPS in Northern Ireland. These are fleshed out in detail throughout this report. The nine recommendations have been grouped as follows:

### A: Data Collection

#### Recommendation 1

PPS and PSNI to jointly agree a mechanism to collect and collate overarching statistical data on VPS in Northern Ireland, broken down by crime type and by Magistrates' and Crown Courts.

### B: Victim Communication

#### Recommendation 2

PPS, alongside PSNI Family Liaison Officers (FLOs), VSNI and NSPCC to consult / review process for notifying victims of their entitlement to provide a victim personal statement to the courts. This should include a form of direct personal contact with victims specifically about VPS and should at least include follow-up/reminder about any information issued by post. Consideration should also be given as to the benefits of offering a video/audio statement option.

### C: Legislation / Policy / Guidance

#### Recommendation 3

PPS, in consultation with PSNI and support organisations, should develop guidance around the timing for completion and submission of a VPS to optimise their use and mitigate the risk of a VPS not being utilised due to process failure.

#### Recommendation 4

Department of Justice, in consultation with PPS, to develop and roll out a more prescriptive VPS template to be used by all organisations that enables victims to choose from a range of options – from reading out their own statement in court right across to not wishing to have their VPS read out at all. This will help mitigate the risk of overly lengthy statements or the inclusion of inappropriate content

and ensure that the judge has clarity on how the victim wishes their statement to be referred.

#### Recommendation 5

Department of Justice to amend policy / legislation as necessary to enable victims of crime to be given the option to read out their VPS in court.

#### Recommendation 8

A quality assurance mechanism to be developed and implemented by PPS to dip sample VPS at specified intervals to monitor compliance with the agreed guidelines.

#### Recommendation 9

Department of Justice to develop structured VPS guidance that provides clarity and consistency in terms of process and content for each relevant strand of the criminal justice system: Support Organisations; PPS, NICTS & the judiciary.

### D: Training & Support

#### Recommendation 6

Refresher training to be delivered to relevant staff and other key stakeholders, including PSNI FLOs, at least once every two years to accommodate staff turnover within organisations. Training should be jointly facilitated by PSNI and PPS with a focus on adherence to criteria, quality, timing etc.

#### Recommendation 7

Department of Justice to review the support mechanism to deliver this statutory entitlement and ensure adequate capacity is in place so that all victims that wish to make a VPS can get the support they need to submit a VPS in a timely manner.

## SECTION 1: Purpose & Origins of VPS

A VPS is a formal opportunity for a victim/survivor to state in their own words how a crime has affected or continues to affect them.

Where the victim is deceased, or unable to make a statement due to their physical or mental ill health, someone else, such as a close family member can write it. A bereaved family member can make a VPS on behalf of other family members and a parent/guardian can make a VPS instead of, or in addition to a victim who is under 18.

A VPS is considered when a case goes to court and is usually used after a defendant pleads guilty or is found guilty. It is intended to inform a judge about the degree of harm a crime has caused a victim(s) before a sentence is passed. It can include information on physical, social, emotional, educational, financial and other impacts a crime has had on an individual. It should not include opinions on the defendant, reference other incidents they may have been involved in, or give views on the sentence that should be handed down.

Though a VPS can often be referred to as a victim impact report or victim impact statement, the two should not be confused. An expert Victim Impact Report (VIR) is prepared for the court by a medical professional – whether a psychologist or a psychiatrist – following a professional assessment of the victim at the request of the court. A VPS is a victim's own account of how a crime has impacted them physically, emotionally, financially, psychologically and socially.

VPS, or victim impact statements as they used to be called, have been in use in Northern Ireland in various formats for quite a long time – dating back as far as the 1980's. However, they have only been placed on a statutory footing since 2015. On the next page is a brief history of these victim impact or victim personal statements in Northern Ireland.



## How we got to here: VPS Timeline

### 1980 – 2010 Common Practice

Judges proactive in seeking information regarding the impact of the crime on victims to help inform sentencing decisions however this was undertaken on an ad hoc basis with no formal structure to inform victims of their use.

### 2011 – 2012 Research & Evidence Base

A Northern Ireland Assembly commissioned research paper highlighted the low uptake of victim impact statements in Northern Ireland courts: *“The level of victims making Victim Impact Statements in NI is low, since June 2006 there have been 435 cases where Victim Impact Statements have been used in court proceedings. It appears that the use of Victim Impact Statements is in practice restricted to cases involving sexual offences or those of a violent nature.”*<sup>1</sup>

The Department of Justice subsequently made a commitment in the Victim and Witness Action Plan 2011-12 to take forward work to formalise practice regarding victim impact statements as they were then called. While the statements had been available to the courts for some time prior to this, there was no formal process or guidance relating to them.

A public consultation<sup>2</sup> was undertaken seeking views on a range of issues including the development of guidance and placing an entitlement to make a victim statement in legislation.

### 2013 Formal Scheme introduced

A formalised scheme for victim statements (which then became known as Victim Personal Statements) availing of the assistance of Police Family Liaison Officers (for bereaved family members), VSNI - for adult victims and NSPCC - for child victims and their parents, was introduced in 2013. This included publication of an information leaflet. Victims could also opt to complete the statement without assistance and submit directly to the PSNI.

### 2015 Legislation enacted

An entitlement for victims (including bereaved family members and parents of child victims) to be afforded the opportunity to make a victim personal statement was subsequently set out in the Justice Act (Northern Ireland) 2015.

The Victim Charter was laid before the NI Assembly as part of the above Justice Act. This Charter set out a broad range of victim entitlements and criminal justice agency responsibilities, and included the right for victims to have the opportunity to tell the court how a crime has harmed them.

### 2016 Legislation enforced

The Department of Justice make Victim Statement Regulations<sup>3</sup>, scheduled to come into operation in February 2017, setting out the parameters for victim personal statements.

An Explanatory Memorandum<sup>4</sup> to the Regulations was laid before the NI Assembly, enforcing the regulation making powers in the 2015 Justice Act.

1 NI Assembly Research and Information Service Research Paper, *Victim Impact Statements*, 2012, Fiona O’Connell, Pg 3.

2 *Victim Charter: A Charter for Victims of Crime*, Department of Justice NI, 2015

3 *The Victim Statement Regulations (Northern Ireland) 2016*, Department of Justice.

4 *Explanatory Memorandum to Victim Statement Regulations*, Department of Justice, 2016

## How do victim personal statements operate in Northern Ireland?

Guidance on victim personal statements is provided on both the DoJ website and the Government's NI Direct webpage, which set out who can make a statement, how they will be used, when they can be made and who can provide support.

A VPS information leaflet<sup>5</sup>, developed by the DoJ and setting out similar information is issued to all victims of crime once a decision has been made by the Public Prosecution Service (PPS) to pursue a prosecution for a particular crime.

In Northern Ireland the VPS covers all crime types and not just specific or what might be considered 'serious' crime types. Therefore, all victims of crime are entitled to be given the opportunity to make a VPS. This entitlement is enshrined in legislation and further reinforced in the Victim Charter for Northern Ireland. The VWCU, which sits within the PPS, has responsibility for making victims aware of this entitlement.

However, it is not mandatory for victims to make a statement once they are made aware of the entitlement.

The legislation and guidance states that a victim should contact either the PSNI FLO (for road death, manslaughter or murder cases), VSNI (for adults) or the NSPCC Young Witness Service (for children and young people) in order to seek guidance and support to make a victim personal statement.

A victim can write their own statement or dictate to one of the above named organisations to write it for them before agreeing and signing off. A version of a guiding template is used by each organisation in different ways to steer the process.

Once completed, the supporting organisation will submit the final statement to the Occurrence Case Management Team (OCMT) Branch of the PSNI, where it will be linked to the PPS file via the Causeway IT system. That is the only conduit under which PPS will accept a VPS, electronically via PSNI. This will then be reviewed and any areas that have been included but which sit outside the remit of the VPS will be redacted before being served on the court and the defence. Redactions might include comments on sentencing, details of the crime committed, other acts or crimes relating to the defendant etc.

As with all material received by PPS, the statement will be reviewed to check if any material contained within it meets the the disclosure test (meaning the material could assist the defence case or undermine the prosecution case) and if so, this information must be disclosed to the defence. This means that a victim can potentially be questioned about the content of the victim personal statement.

Once a VPS has been reviewed by Prosecution Counsel, and the disclosure test undertaken the statement will be served on both the defence and court at the same time.

A VPS needs to be made and submitted to the court prior to the sentencing date in order for the judge to read it before passing sentence. At sentencing stage, victims of crime in Northern Ireland are not entitled to read out their statement in open court. Only a judge can read out a VPS in court, but this is entirely at their own discretion and they are not required to do so. They can choose to include none, all or part of a VPS in their sentencing remarks, which can be published or reported on by the media.

If a victim does not wish for their statement to be read out or referred to, they must specify this in their statement.

<sup>5</sup> DoJ Making a Victim personal statement leaflet.pdf



## How does this approach compare across jurisdictions?

Each jurisdiction adopts a different approach to VPS, including what they are officially called. Below is a table setting out the nuanced distinctions in approach across the jurisdictions on these islands with Canada as a further comparator for reference.

	N. Ireland	Eng/Wales	Scotland	Rep. of Ireland	Canada
Terminology	Victim Personal Statement (VPS)	Victim Personal Statement	Victim Statement	Victim Impact Statement	Victim Impact Statement
Can all victims of crime make a statement?	✓	✓	✓	✓	✓
Is there support available to make a statement?	✓	✓	✓	✗	✓
Can the defence get to see the statement during trial?	✓	✓	Not necessarily	✓	✓
Can a victim be cross-examined on their statement?	✓	✓	✓	✓	✓
Can a statement include comments on sentencing?	✗	✗	✗	✗	✗
Can the victim read out their statement in court?	✗	Yes (unless court decides there is good reason not to permit this)	✗	✓	✓
Ways a VPS can be used in the Criminal Justice System.	Sentencing only	Sentencing, appeal hearings, tariff review hearings & Parole Board hearings	Sentencing only	Sentencing only	Sentencing and when making other decisions about a person found not criminally responsible

Whilst there is commonality across the different jurisdictions listed on the previous page, there are also some significant differences. Northern Ireland and Scotland are the only jurisdictions where a victim is not allowed to read out their own statement. The Scottish system also has a mechanism whereby the defence will not usually see the victim statement until after the accused has pleaded guilty or been found guilty.

As outlined in the Scottish Government's guidance document, however: *'the Procurator Fiscal does have a duty to make all or part of the victim statement available to the defence at an earlier stage to help ensure a fair trial if, for instance, your victim statement contains information that could have an effect on the outcome of the trial or contradicts witness or victim statements you have already given.'*<sup>6</sup>

Additionally, and as pointed out in previous research into victim personal statements here:

*'VPS in Northern Ireland are limited to just sentencing, which remains narrower than the rest of UK, where it is also used to inform bail, probation and prosecution decisions. That said VPS in Northern Ireland are only taken on a judgment of guilt of an accused, whereas in England and Wales it is taken at the same time of their initial statement to the police'*<sup>7</sup>.

In contrast to Northern Ireland and Scotland, in England and Wales there is currently no statutory duty requiring criminal justice professionals to inform victims of the VPS scheme. This may now change with the introduction of the Victim & Prisoners Act 2024 (which received Royal Assent on 24 May 2024) and which states:

*'The victims' code must make provision for services which reflect the principles that victims— (a) should be provided with information to help them understand the criminal justice process; (b) should*

*be able to access services which support them (including, where appropriate, specialist services); (c) should have the opportunity to make their views heard in the criminal justice process;*<sup>8</sup>

As mentioned previously, in England/Wales the VPS may also be used at appeal hearings, tariff review hearings and at Parole Board hearings, where the victim can additionally set out how the crime continues to affect them and/or their family and the impact that any outcome from one of those reviews may have on them.

There is an identified research gap around the use and benefits of victim personal statements including the potential benefits of a victim being permitted to read out their VPS in court. This has been documented by the Sentencing Academy in their recent review of research and developments of victim personal statements<sup>9</sup>. It referenced the Victims Commissioner for England & Wales 2015 survey in which 5% of respondents reported that they had made a VPS for only cathartic or therapeutic reasons, whilst 14% had wished to communicate with the offender.

The review also highlights data from the Victims Commissioner for England and Wales publication summarising findings from surveys and interviews with victims and practitioners. The table below outlines Magistrates' responses to a question about the effectiveness of the VPS for victims<sup>10</sup>. As can be seen, perceptions are far from positive, with only approximately one respondent in ten believing that the VPS worked 'well' or 'very well' for victims.

<sup>6</sup> Government of Scotland, *Making a Victim Statement*, Edinburgh 2018, Pg 4

<sup>7</sup> Moffett, L., *Impact of Victim personal statement in Northern Ireland and Potential for Further Reform*, 2016, QUB Human Rights Centre

<sup>8</sup> *Victims and Prisoners Act 2024, Ministry of Justice, Section 1 – Victims of Criminal Conduct*, Pg.2

<sup>9</sup> *Victim personal statements: A Review of Recent Research and Developments*, Rock.F, 2024, The Sentencing Academy.

<sup>10</sup> *Ibid*, pg.7

Perceptions of the effectiveness of VPS regime

Q. How well do you think the victim personal statement process works for victims?	
Very Well	1%
Well	10%
Average	32%
Poor	29%
Very Poor	28%
Total	100%

The Sentencing Academy Review noted that:

*‘Recent empirical data on the use of VPS are very limited. This restricts the conclusions which may reasonably be drawn about the benefits and burdens/disadvantages of victim impact statements. No data on the volume of victim statements are currently collected by either the Government or the Ministry of Justice, and questions about the VPS have not featured consistently on the Office for National Statistics’ National Crime Survey.’*



## SECTION 2: Victims' Experiences in NI

Victims are not routinely asked about their experience of the VPS process, however quantitative data has been captured through the following surveys:

### 1. Northern Ireland Victim and Witness Survey (NIVAWS)

*'NIVAWS is an extensive and broad ranging survey covering the entire criminal justice experience for both victims and witnesses from the point of initial contact with the system right through to the point of sentencing and beyond.'*<sup>11</sup>

Categories of crime included are violence against the person, burglary, robbery, theft, criminal damage and offences against the state. It does not include data relating to victims of sexual abuse, domestic abuse or crime involving a fatality.

While not covered in the 2022/23 NIVAWS published findings, the survey did ask four key questions specifically on VPS. The DoJ shared this unpublished data with CVOCO for the purposes of this research and these findings are reflected throughout this report.

### 2. Commissioner for Victims of Crime Survey

The second source of data is the inaugural victims survey carried out by the Commissioner for Victims of Crime Office, and which closed on 31 March 2024. The purpose of the survey is to understand victims' experiences of the criminal justice system in Northern Ireland. It is an online survey completed independently by victims remotely, and is open to all victims of crime regardless of crime type. The survey included three questions relating to victim personal statements.

Both PPS and NICTS were asked to provide any data they held regarding VPS statistics more broadly. There is no available overarching data on the number of VPS completed in Northern Ireland and whether these

were completed for the Magistrates' Court or the Crown Court. This is a significant data gap that needs to be addressed.

#### Recommendation 1

PPS and PSNI to jointly agree a mechanism to collect and collate overarching statistical data on VPS in Northern Ireland, broken down by crime type and by Magistrates' and Crown Courts.

### Entitlement to make a VPS

The first key question from the NIVAWS survey relates to whether victims were informed or made aware of their entitlement to make a VPS:

**Were you offered the opportunity to make a victim personal statement?**

Response	Number	Percentage
Yes	89	39
No	119	52
Don't know	21	9
<b>Total</b>	<b>229</b>	<b>100</b>

The table above indicates that over 60% of survey respondents were either not offered, or did not know/ could not recall whether they were offered, the opportunity to make a victim personal statement. This is a significant majority of victims in cases surveyed. The findings point to a system where victims are entitled to make a statement (both in legislation and the Victim Charter) but that adequate processes are not in place to ensure that victims are aware they can do this and how to go about it.

Responsibility for informing victims about their right to make a VPS rests with the VWCU.

This is currently done by issuing a Decision to Prosecute letter, which includes a leaflet on VPS, along with other literature and documentation relating to the victim's upcoming

<sup>11</sup> Victim and Witness Experience of the Northern Ireland Criminal Justice System: User Guide, Department of Justice & NISRA, August 2023, Pg. 5

case in court. The onus then passes to the victim to act on this information and to make contact with one of the designated support organisations. There is no follow up from the VWCU once the leaflet is issued in the post. In some cases referrals will be made by the PSNI or the VWCU to the relevant support organisations who will in turn make contact with the victim.

It is recognised that an individual's ability to recall information can vary based on a range of factors including the emotional state of the person receiving the information, timing of the information and the complexity of the information. The fact that a victim cannot recall being offered the opportunity does not therefore indicate that this letter was not sent, but rather could indicate that additional measures need to be in place to ensure that victims are reminded of this entitlement at different stages throughout the process.

Given the rules and criteria around what can be included within a VPS it is advised that all VPS should go through one of the support organisations. However, if a victim does not wish to avail of this support they can still provide the VPS directly to the PSNI who will then submit this electronically to the PPS. The PPS will only accept a VPS from the PSNI. Current practice in Northern Ireland indicates that victim personal statements are only captured and submitted in writing, however in England and Wales, the VPS can be taken in video format. This option may be preferable for some victims here if it was available.

The timeframes involved and the inexperience of first-time victims in understanding the criminal justice process were both repeatedly raised as concerns during this research project. There is usually a lengthy timeframe between getting initial information from the VWCU and the actual date of a court case. Layered on top of this is the trauma and difficulty of the whole experience for victims – particularly in more serious and complex cases.

During this review, we were made aware of a case where a victim had made a statement with assistance from one of the support organisations. The PPS advised the support organisation not to submit the VPS until a verdict had been reached in the case. However, sentencing took place on the same day as the verdict, resulting in the victim's statement never being submitted or seen by the judge. This added to the trauma and negative experience for this victim.

Another victim who wasn't given the opportunity to provide a VPS summarised their feelings on the matter:

*"I was sent lots of info from VWCU. In there somewhere is the info on VPS – but it got lost within the whole thing. I asked PPS on the day if I could make a VPS. They never came back to me with info....It's really important, I feel aggrieved I didn't get to do one. It should be addressed in a direct phone call – a follow up call from VWCU – to ask if you would like to avail of a VPS opportunity. You can change your mind along the way but at least get the chance."*

#### Recommendation 2

PPS, alongside PSNI FLOs, Victim Support NI and NSPCC to consult / review process for notifying victims of their entitlement to provide a victim personal statement to the courts. This should include a form of direct personal contact with victims specifically about VPS and should at least include follow-up / a reminder about any information issued by post. Consideration should also be given as to the benefits of offering a video/audio statement option.

## Benefits / Value of making a VPS

Other key questions from the NIVAWS survey relate to the value and benefits of making a VPS.

Of those who did go on to complete a VPS, over



70% felt it was helpful or very helpful, with roughly 30% finding it not very helpful or not helpful at all. Although no reasons were provided as to why respondents found the VPS helpful or otherwise, it is interesting to note that 60% of those who provided a VPS state that it was not referred to or they did not know whether it was referred to by the judge during sentencing of their case.

**Did you feel that giving a victim personal statement was helpful\*:**

Response	Number	Percentage
Very helpful	20	42
Fairly helpful	14	29
Not very helpful	7	15
Not at all helpful	7	15
<b>Total</b>	<b>48</b>	<b>100</b>

*\*Don't knows and refused have been removed from the table to eliminate disclosure risks as the numbers were small*

**Did the Judge refer to the victim personal statement at trial?**

Response	Number	Percentage
Yes	19	40
No	16	33
Don't know	13	27
<b>Total</b>	<b>48</b>	<b>100</b>

Victims who engaged in this research were fairly unanimous in informing us of the value of writing a VPS with one victim capturing the mood when they stated:

*“I found the VPS process a very useful exercise to set down thoughts about how I felt. It was therapeutic. The act of doing a VPS is valuable.”*

Others chose not to do a VPS for reasons relating to their circumstances, which in some cases related to ongoing contact with, or proximity to, the perpetrator. Victims were subsequently asked what the benefits of making a victim personal statement were. The table below outlines some of the responses received:

**What would you say are the benefits, if any, of making a victim personal statement?**

Option	Number of respondents	Percentage
There are little/no benefits from making a personal statement	8	17
Allowed me to show how I felt about the case/how the case had affected me/my own personal perspective	17	40
It was helpful/helpful in allowing myself to talk about the case	12	29
Don't know	5	10

*(N.B. This was an open-ended question and, in collating the responses for this question, ORS used the 4 response categories listed in the table above and then just recorded other miscellaneous responses as free text.)*

We can see that a majority (69%) of those who responded to this question found the process beneficial in some way and helped them to process the events and the trauma that they had suffered. Whilst the number of responses was not statistically significant, the data nonetheless offers an important insight into the value victims place on VPS as a mechanism for having their views recorded within the justice process.

One victim that agreed to be interviewed for this research project provided a detailed insight into the experience of making a statement and the value and benefits it offered:

*“So, I put it off, and kept putting it off until one night and I sat up until five in the morning.*

*“It’s just something that was really so important to me to do, but it put me in quite a fragile place mentally. Going over everything again and again.*

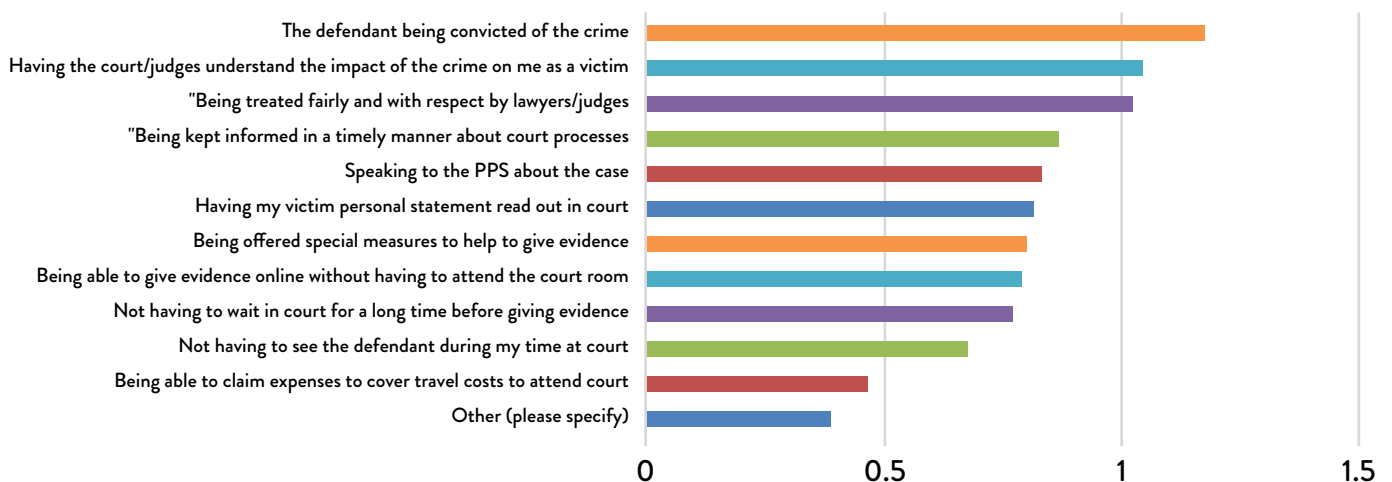
*“And it was a really, really difficult thing to do, to be honest. But it was something that I felt like it was my only chance to ever get my voice heard within the judicial system, really, to be honest. It was the first time for my voice to actually come out. You know what I mean. Rather than questions from you know, like whenever you’re getting cross-examined, because you can’t really comment on anything. Yeah. And it was the first time they actually ever really get my voice heard. So it was really important for me to get it right. So I ended up staying up all night to do it.*

*“It was 100% valuable because as I said, to get my voice heard, but also, it was quite cathartic. And I guess it was because it’s the first time I really put down, you know, put pen to paper and describe it. Like, I don’t know, I think maybe it helps me because I’m someone who would enjoy writing and stuff. And just for me, it was quite like a cathartic experience. I feel like I needed it to kind of really process what all happened.”*

The CVOCO victim survey asked respondents (n=166) to rank what was most important for victims attending court and used their responses to provide a weighting to each of the different options.

As indicated in the chart below, ‘Having the court/judges understand the impact of the crime’ ranked second of the 12 options provided whilst ‘Having my victim personal statement read out in court’ came in 6th in the overall ranking. This again highlights the importance for victims of exercising their right to make a VPS, but also for it to be acknowledged and recognised through being read out in court if the victim so chooses.

Based on your experience of attending court, what is most important for victims?



## Timing & Accessibility of VPS

The literature issued by the PPS / VWCU to victims following a decision to prosecute encourages them to make their VPS as early as possible in the process. The following paragraph is included in all Decision to Prosecute letters that are issued:

*'I enclose a leaflet about making a victim personal statement ('VPS'). Making a VPS is entirely optional. It is a way for you to set out in writing the real impact the crime has had on you. If a defendant is convicted, the VPS will be handed into the court and to the Defence before sentencing. The enclosed leaflet sets out more information about this process. You should contact Victim Support NI, NSPCC Young Witness Service or your PSNI family liaison officer for advice before making a VPS. The VPS should be made as soon as possible.'* (Emphasis added)

We hear from the support agencies, however, that they are discouraged from assisting a victim with their statement until the trial stage or at the point of a guilty verdict. This highlights a 'disconnect' between what victims are being advised by the VWCU and the operational practice on the ground.

Both the data available and feedback from victims, however, indicates that many victims do not recall being made aware of their entitlement to make a statement. This may be affected by the length of time that has passed between receipt of this letter and the trial date.

A common theme we heard from victims was that their awareness of the VPS as an option got lost in the whole process. The timing of when the information is shared is very early on in a process with which most victims are completely unfamiliar. It could take anywhere between 6 months and 3 years from the initial decision to prosecute letter (which includes reference to the VPS) and the case getting to court. There is no follow up thereafter so the onus is on the victim to initiate the process. A timely reminder closer

to the trial date could make a significant difference to the proportion and percentage of victims that complete and submit their VPS.

Another issue of concern that arose during the course of this research is the practice of delaying the submission (on the advice of PPS / Prosecution Counsel) of a VPS until close to or after a conviction. While this may be intended to mitigate the risk of cross-examination of a victim, it runs the risk of a VPS not being submitted in time for a judge to consider before sentencing. This is a concern for Magistrates' Court cases in particular, where we regularly see conviction and sentencing taking place in close proximity, in some circumstances on the same day. A balance needs to be struck in terms of the timing of submission to ensure no victim loses out on their entitlement to submit a VPS.

This was further supported by observations during sentencing stage in Crown and Magistrates' Courts, which formed part of the research methodology for this project. In one case observed (Crown Court) the VPS was only shared with the judge at the actual sentencing hearing. The sentencing hearing was paused to allow the judge some time to read the statement. The defence were also provided with the statement at the same time as the judge. While it is acknowledged that this is not an ideal process, again a balance must be struck in terms of timing and finding the optimum point for a victim personal statement to be shared with the court.

### Recommendation 3

PPS, in consultation with PSNI and support organisations should develop guidance around the timing for completion and submission of a VPS to optimise their use and mitigate the risk of a VPS not being utilised due to process failure.

## Use of VPS in Court

### 1. How Judges use VPS

There were mixed responses within the NIVAWS survey relating to how victims' VPS were used in court (see table below). It should be noted again that this survey did not include victims of sexual abuse, domestic violence or crimes involving a fatality.

**Did the judge refer to the victim personal statement at trial?**

Response	Number	Percentage
Yes	19	40
No	16	33
Don't know	13	27
<b>Total</b>	<b>48</b>	<b>100</b>

As outlined in Section 1, how a VPS is used in court is entirely at the discretion of the presiding judge in a given case. A judge can decide to read out a statement in full, read parts of a statement, make reference to a victim personal statement or not refer to it at all. If a victim does not wish for their statement to be read out by the judge, this must be stated on their VPS. There currently isn't an opt-in / out tick box option on the form, it must be clearly stated in writing that the victim objects to part(s) of their VPS being referred to in court or in any judgement.

Some victims who spoke to us stated they were content for the judiciary to read their statement either in full or in part, while others felt very strongly that the victim should read it out or at least have the option to read it out themselves – even if they change their mind leading up to the day or on the day itself.

*'I presumed that victims got to read out their statement to the perpetrator. The judge didn't commit the crime. The perpetrator is protected. Reading a VPS to the perpetrator is a major part of healing.'*

Some victims informed us that they were not aware that the judge did not have to read out the full statement. Below are a couple of the comments we heard from victims:

*"Judge read statements in part but not all shared in remarks – I felt cheated."*

*"Judge selected what he thought was impactful, not what the family thought was important."*

*"I've no idea if the judge read my VPS. It goes into a black hole."*

### Recommendation 4

Department of Justice, in consultation with PPS to develop and roll out a more prescriptive VPS template to be used by all organisations that enables victims to choose from a range of options – from reading out their own statement in court right across to not wishing to have their VPS read out at all. This will help mitigate the risk of overly lengthy statements or the inclusion of inappropriate content and ensure that the judge has clarity on how the victim wishes their statement to be referred.

### 2. Entitlement to read own VPS

Those we spoke with who expressed a desire to read out their own statement in court felt very strongly about being allowed to do so and believe that it should be an entitlement for victims.

In relation to their VPS, one victim rhetorically asked

*'What's the point of completing that statement if I wasn't allowed to read it out?'*

While another victim told us:

*'It was the hardest thing for me to do as a victim. I should have had a right to read it out. No closure for me in that.'*

There was unanimity in terms of a desire for a victim-led approach to VPS. Interviewees referenced instances where a judge prevented a victim from reading out their statement. It was felt that victims should have a choice as this is their evidence and the decision should be theirs. Again, this is in line with views expressed throughout the research process and is articulated in Recommendation 5.

All of this highlights the need for choice regarding how VPS are being used in court. While many victims will not wish to read out their own statement, some will feel that this is an essential part of their voice being heard. If we are to live up to the rhetoric of having a 'victim-centred' criminal justice system, then victims need to be given the option to read out their VPS in court. This would bring Northern Ireland in line with England, Wales and the Republic of Ireland.

While solicitors did not provide input to this research, previous research outlined concerns that the legal profession may have regarding victims providing oral statements in court:

*'...there was little support amongst legal practitioners for victims to give an oral presentation on how the crime has impacted on them. These concerns ranged from an oral presentation becoming a rant or attack on the defendant, with little control of the substance of a victim's statement on the facts and charges before the court, to fears that victims would not want to give any statement if it was oral evidence as they would more likely face cross-examination.'*<sup>12</sup>

It should be noted that this feedback dates back over eight years so may not be representative of current views. The experience of England and Wales and the Republic of Ireland does not appear to bear out such concerns and learning from these jurisdictions can

hopefully inform such developments in Northern Ireland.

### 3. Disclosure and potential for cross-examination

Another significant aspect of how the VPS is used in court that was repeatedly raised as a concern by victims is the fear that it may be used against them in the trial. This fear was a major barrier for some in writing their statement. Some victims informed us that they restricted what they included in their VPS because of this. As one victim put it: *'I didn't want the defence to read what I put forward so I didn't write what I wanted to write.'*

We have been made aware of cases in which a VPS was used by the defence and had adverse consequences for the victim. One of these was a murder case in which the partner of the deceased submitted a VPS. Within the VPS the victim made a reference to medical support. When the VPS was served on the defence, the defence team requested the release of the victim's medical information.

As one victim told us:

*'I wouldn't mind the defence seeing it as long as it's not being used by them against me. That would not be fair.'*

During the course of this research, stakeholders provided varying opinions on whether the right to read out a VPS requires a policy change or legislative change. It is recommended therefore that DoJ explore this and take forward the following recommendation:

#### Recommendation 5

DoJ to amend policy or develop legislation as necessary to enable victims of crime to be given the option to read out their victim personal statements in court.

<sup>12</sup> Moffett, L. (2016), *Impact of Victim personal statement in Northern Ireland and Potential for Further Reform*, QUB Human Rights Centre, Pg.5



## SECTION 3: Stakeholder Experience

### Prosecution

The PPS play a pivotal role in relation to victim personal statements. Their role commences early on in the process, following a decision to proceed with a prosecution, when the VWCU issue a Decision to Prosecute letter accompanied by a leaflet on the VPS process. This letter encourages victims to make a VPS 'as soon as possible'.

During the course of this research, we spoke with a cross-section of senior PPS staff, and there was consensus around some of the key issues raised.

They acknowledged, as referenced earlier in this report, that issuing information so early in the process is problematic and may be a factor in the relatively low uptake of VPS by victims. The leaflet also states *'if a VPS is not submitted in sufficient time before the sentencing date, it will not be possible to delay the case for this purpose'*<sup>13</sup>. Both of these factors, according to those interviewed, may feed into the absence or low levels of VPS at Magistrates' Court.

Anecdotally they cited examples of cases where issues contained within a VPS were used by the defence and ultimately had an impact both on the case and a subsequent appeal.

In order to mitigate against these concerns, there was an appetite for delaying the submission of VPS until after a conviction is made but prior to sentencing. This is now reflected in internal PPS guidance, which recommends that the recording of a VPS should not be carried out until after conviction. However, and as referenced earlier, it was recognised that this can create difficulties within the Magistrates' Court in particular, where conviction and sentencing can frequently take place in one sitting or on the same day. Much of this is down to the pressures on the judiciary and the resistance to adjourn to accommodate for VPS given the backlog this would create or contribute to. It was suggested

that some accommodation could be made whereby a VPS is submitted or accepted later in the process, close to the trial date before counsel meet with the victim. This may mitigate any disclosure issues; however, it is recognised that such material would still need to be reviewed by counsel and relevant information shared with the defence if the disclosure test was met.

As outlined earlier in this section of the report, a [Crown Court] case was observed in which a VPS was shared with the judge at the last minute (post-conviction but prior to sentencing). The judge paused the hearing to allow some time to read the statement. The defence were also shown the VPS at the same time – where it was apparent that the defendant's action had significant impact and a significant degree of harm was caused. It seems this was an exceptional case which shows that things are being, and can be, done differently where there is good will and an appetite to do so. It also demonstrates that practice does not always need to be a slave to policy, and should in fact lead and influence policy change.

### PSNI

Over the course of this research, we spoke to staff from the PTC. We were informed that training on VPS makes up a very small component of overall recruitment training for police officers and is possibly lost within the volume of material they are consuming. Public Protection Branch also have training on how to take statements as part of their induction day for officers. Whilst training for FLOs is essential due to their role in the process, it is also useful for all police to be aware of the VPS process so they can inform the victim of this entitlement and provide advice on where to seek support with completion. Other areas for improvements that were mentioned (by PTC staff) included the following:

<sup>13</sup> Making a Victim personal statement, Dept of Justice, 2015

- Timing of VPS - finding the balance between doing it too early and leaving it to the latter stages of the criminal justice process, which in some cases could take up to five years. Distinctions should be made between Crown Court and Magistrate Court cases.
- Suggestion to look at the possibility of alternative formats for completing a VPS – perhaps digitise the process or offer the option to submit a video version – particularly for younger victims that would have a preference for alternative formats and might not be willing to write or be interviewed.

## Support organisations

VSNI and The National Society for Prevention of NSPCC are the designated support organisations in Northern Ireland with regards to VPS for adult and child victims respectively.

They can provide victims with support to write and submit a VPS in all cases with the exception of victims of murder/manslaughter and road traffic deaths, who can access support from PSNI FLOs.

Prior to Covid-19, all victim personal statement support was provided face to face and statements were signed off in person. This process is now carried out electronically and conversations are held over the phone once guidance is sent out to victims, usually by e-mail.

Advice workers within VSNI and Children’s Services Practitioners (trained social workers) within NSPCC will provide this guidance and support victims to write their own statement, or in some cases will write it up for them based on the information provided by the victim. In limited circumstances face to face appointments will be arranged to facilitate this if necessary. These staff roles are not entirely dedicated to this and support with VPS is just one of a number of areas within their remit.

Feedback suggests that this approach is working well and being able to complete these statements remotely without the need for in person meetings is more efficient, given the restricted support capacity.

We have been informed that little or no training has been delivered to staff at the support organisations over the past 10 years on VPS.

This is despite the usual and regular turnover of staff within organisations. This would suggest that most staff involved at various stages of the VPS process have received little or no formal training. There is a need therefore for refresher training to be undertaken with all staff tasked with assisting victims to complete VPS. This training could incorporate recommended changes to the VPS template.

### Recommendation 6

Refresher training to be delivered to relevant staff and other key stakeholders, including PSNI FLOs, at least once every two years to accommodate staff turnover within organisations. Training should be jointly facilitated by PSNI and PPS with a focus on adherence to criteria, quality, timing etc.

## Challenges

A number of challenges were highlighted during the course of this research. These are summarised below.

Advice workers are handling a significant volume of requests to provide support to conduct a VPS. VSNI reported completing and submitting an average of about 25-30 statements per month, while NSPCC completed 98 statements in a 12 month period (2022-23). Providing support to victims to make a statement is something of an add-on to their duties and creates an additional pressure on an already busy role.

The number of requests is not always spread out over the course of a week, month or year and the challenge comes when multiple requests are made in a short period of time. This combined with a short turnaround

time, particularly for Magistrates' Court cases, can place additional pressure on both an advice worker and a victim. In many cases an advice worker will not be aware of the trial date or when the VPS is due for submission. A victim may also not know this. They will therefore try and complete the process and submit the statement as promptly as possible, even though in some cases it may be at an early stage in the case. In other examples, advice workers had very short notice to get a statement completed before sentencing. This has led to situations where a victim's statement is not completed in time for submission and their entitlement under the Victim Charter to make a VPS goes unmet.

These issues were highlighted previously in a research report published by Queens University Belfast in 2016, which stated:

*'The support sector, in particular Victim Support, has seen a surge in the number of victim personal statements being made. This is unsurprising given the expansion of VPS from murder, GBH and sexual violence to all indictable offences, and resources have been put in place to fund support workers from the DoJ. However, challenges remain in the efficient processing of VPS in magistrates courts, where numerous cases may be heard in a short time period and sentencing within a few days of the judgment where there are guilty pleas. It may be the case that while there are funded positions within organisations like Victim Support, further volunteers will need to be trained and managed by such professional staff to deal with the volume of VPS so that they can inform sentencing decisions.'*<sup>14</sup>

Based on the evidence provided, it would appear that the situation is currently no further on than where it was eight years ago. The reality is that the current practice of delaying the VPS until just before or after the verdict places a significant burden on the support providers to assist a victim with completion and leaves

<sup>14</sup> Moffett, L. (2016), *Impact of Victim personal statement in Northern Ireland and Potential for Further Reform*, QUB Human Rights Centre.

some victims unable to avail of their entitlement to outline the harm caused to them by the crime. A more timely process needs to be developed to ensure all victims can avail of the VPS entitlement or additional resources must be made available to enable support organisations to respond swiftly to demand.

### Recommendation 7

Department of Justice to review the support mechanism to deliver this statutory entitlement and ensure adequate capacity is in place so that all victims that wish to make a VPS can get the support they need to submit a VPS in a timely manner.

## Judiciary

Two Crown Court and two Magistrates' Court judges agreed to be interviewed as part of this research. All judges interviewed were broadly supportive of VPS, despite issues encountered on occasion. As one judge put it:

*'... in terms of sentence and it's important for the court to understand what implications there have been for the victim. Have they recovered from their physical injuries? And has there been any subsequent emotional trauma?'*

Another judge stated:

*'So in my role in the Magistrates' Court, I deal with a contest court three days a week, where I would hear an awful lot of domestic abuse contests, some sexual offenses, some involving children. So I do find in those types of cases, that's where I would most frequently see them and I do find them to be useful. I probably would like to see more of them sometimes in cases, but again, with the domestic abuse contest that I do quite often we have victims who disengage from the process entirely.'*

A number of practical concerns were raised by the judges, which are documented below, in no particular order.

While all judges were largely content with the VPS process, at the latter stage when a statement gets to them, one Magistrates' Court judge cited examples that concerned them where a VPS was prepared but not passed on to them:

*'So I actually have it and I make a note on my case progression sheet, you know, victim impact statement on file, but then on the next day the prosecution don't refer to it. So sometimes there can be a break in the line of communication within the PPS and you just hope that there aren't any out there that are not being picked up and not handed up and someone's gone to the trouble of making one.'*

This highlights the potential for elements of the process to go wrong, particularly in more serious cases at the Magistrates' Court, where sentencing is adjourned to accommodate pre-sentencing reports and the prosecution fail to pass on a VPS to the judge either at or after conviction.

Others highlighted excessive information being provided in some of the VPS they handle, mainly those undertaken by PSNI, where expectations may not have been well managed and comments on sentencing or other disallowed comments remain in the VPS. This chimes with the earlier section and recommendation on training and support for all those involved in the process. The guidance, albeit brief, states that a VPS must not include any views on sentencing:

The VPS **should not**:

- describe the detail of the crime itself – the court will hear about this during the trial;
- refer to any other (or alleged) incidents that the defendant may have been involved in or prosecuted for; or
- give your views on the defendant, any punishment or the potential sentence that he or she should receive – that is for the judge to decide.

*If such information is included in the VPS it will be removed prior to consideration by the court.*

A quality assurance mechanism or process would be a constructive way to address this issue and reduce the likelihood of VPS that do not adhere to the criteria and guidance making it through the final stages. A dip sample of VPS could be reviewed at the final stage prior to submission to court / defence team that would help gauge the volume / proportion of statements that contain information that is not supposed to be included. This information should then be redacted prior to submission. If concerns are raised during this process, then further measures should be deployed to ensure VPS being submitted at the final stage adhere to the guidance/criteria.

#### Recommendation 8

A quality assurance mechanism to be developed and implemented by PPS to dip sample VPS at specified intervals to monitor compliance with the agreed guidelines.

All judges interviewed were asked whether they read out a VPS in full and what influences their decision around this. Below are some of the responses provided:

*'I don't read them out in full. First of all, because they're normally too long. Secondly, because they normally contain people's medical issues and health problems. So I would always be very, very careful about anything relating to anybody's health or medical problems. They would nearly always talk about the impact and their mental health and things that they can't do. So I would be very cautious about stating that out in court because that's the victim's personal information.'*

*'Where I get them, I would always acknowledge that I've got them and would normally look for a couple of sentences or a couple of lines to read out, particularly when the person is in court. So that they feel their voice is heard.'*

*‘Generally no. And if I was meant to do so verbatim, I think only fair that you would canvass the views of the victim because there can be some very sensitive material in the statement.’*

*‘The victim may not want it reported in the media and the local press or in websites for news media as that may make them feel more vulnerable. So I would generally, in the interest of transparency, make a comment about how the victim has been affected, so that I can explain the sentence I’m about to impose. Because everyone, not just the defendant, but I think there’s a general duty to society so that they understand why the sentences are passed.’*

*‘Just depends, very much depends. I mean, I have taken the view some days where there’s a particular part of paragraphs that’s really moving. Yeah, and I think that the defendant ought to hear that. If it’s very personal, I’m very reluctant to share that kind of material.’*

Each of these responses indicates an uncertainty regarding what the victim wants and a number of assumptions being made about what might be best for the victim. This reinforces the arguments made earlier in this report, of how essential it is to give the victim a say in, and some control over, what happens with their VPS.

Interviewees from the judiciary were also asked whether they believe that victims should be given the option to read out their own statement in court. Views were again mixed with Crown Court judges more likely to be in favour of this than colleagues in the Magistrates’ Court. In response to the question one Crown Court judge stated:

*‘I mean, on the basis that the prosecution will only have a statement that they have vetted and is not inadmissible. And there’s nothing in it that would improperly affect sentence on that basis. If it’s been checked and vetted and it’s appropriate and*

*if a victim wants to read it out to the defence, I personally have no problem with that.’*

Others had some concerns and were less inclined to favour this approach with one judge stating:

*‘I think the defence may have an arguable submission to make that they should have the opportunity to challenge or test what that victim is saying. So it could have the unforeseen consequences of having the victim cross examined in court. So I would have concerns about a victim being cross examined in court about how the offense has impacted or affected them because I think that could lead to them being re traumatized by the event.’*

The final area covered in discussion with the judiciary touched on any other areas of improvements they felt were required with regards to VPS. Three judges independently raised the issue of guidance, which they felt was lacking in this area. As one Magistrates’ Court judge put it:

*‘I would like there to be some kind of guidance. I would have thought ideally, a practice direction. Judges can be guided by case law, but guidance by case law usually means that something has gone wrong. And this is how you fix it. I would rather get ahead of the problem. Identify the problems that might arise and give judges and police officers and victims and defence some gains in advance and be proactive, rather than reactive.’*

#### Recommendation 9

Department of Justice to develop structured VPS guidance that provides clarity and consistency in terms of process and content for each relevant strand of the criminal justice system: Support Organisations; PPS, NICTS & the judiciary. This could include a practice direction.



## SECTION 4: Broader Considerations

Others referred to the need for better guidance and maybe training for organisations like the PSNI who are providing assistance and guiding victims with their statements. It was felt that this would improve the standard, quality and focus of statements. This Joint Agency Guide<sup>15</sup> from England & Wales may be a useful point of reference for developing tailored guidance for Northern Ireland.

In the course of this review a few issues arose that stray beyond the strict focus of the VPS process within the Northern Ireland courts system. These highlighted broader issues which link to the participation of victims and inclusion of their voice throughout the criminal justice process.

### PSNI officers as victims

Where police officers are victims of assault or other such crimes, these are dealt with under the Health and Safety at Work (Northern Ireland) Order 1978 in parallel to any criminal justice process. An Assault on Police strategy was developed under Chief Constable Simon Byrne and implementation commenced in June 2020. This ensured a mechanism is in place to record such incidents but also to ensure support options were made available to the officers who have been victims.

Implementation of the strategy has resulted in a big increase in reporting of incidents and elements of the plan including an officer no longer being responsible for investigating their own case (which had been established practice prior to the strategy) has played a major part in this.

Another key element of the process is an organisational impact statement. This is a general statement on the impact the incident might have due to absence from duty and other wider organisational impact and is included with the prosecution file sent to PPS.

<sup>15</sup> Joint Agency Guide to the Victim personal statement: A guide for all criminal justice practitioners, Crown Prosecution Service The Victim personal statement (cps.gov.uk)

The PSNI under its current leadership has begun implementing these organisational impact statements within the force but is due to work with the judiciary and PPS to determine the process on how these should be used.

This is a very positive and potentially beneficial initiative but it is critically important to ensure that appropriate processes and understanding is in place across all the agencies to ensure its success and prevent it running into similar challenges as that faced with VPS.

### VPS in the Parole Process

There are a number of scenarios where a convicted offender is subject to consideration for parole following a custodial sentence. These are as follows:

- Life Sentences
- Indeterminate Custodial Sentences (ICS)
- Extended Custodial Sentences (ECS)
- Determinate Custodial Sentences (12 months or more)
- Release of Prisoners on Compassionate Grounds

While victims don't currently have a role in the process, they can submit a tailored impact statement that is different to the VPS submitted prior to sentencing, for inclusion and consideration as part of the parole hearing. This will be done with the support of the Probation Board NI (PBNI) and victims will need to be registered on one of their victim information schemes in order for this to be facilitated.

This impact statement, if submitted by a victim will be considered at the hearing – which could be a paper hearing considered by a single Commissioner or an oral hearing involving a panel of Commissioners. In the case of an oral hearing, the impact statement will be read out and be heard by the perpetrator and their representative, if they decide to attend, as well as others in attendance at the hearing.

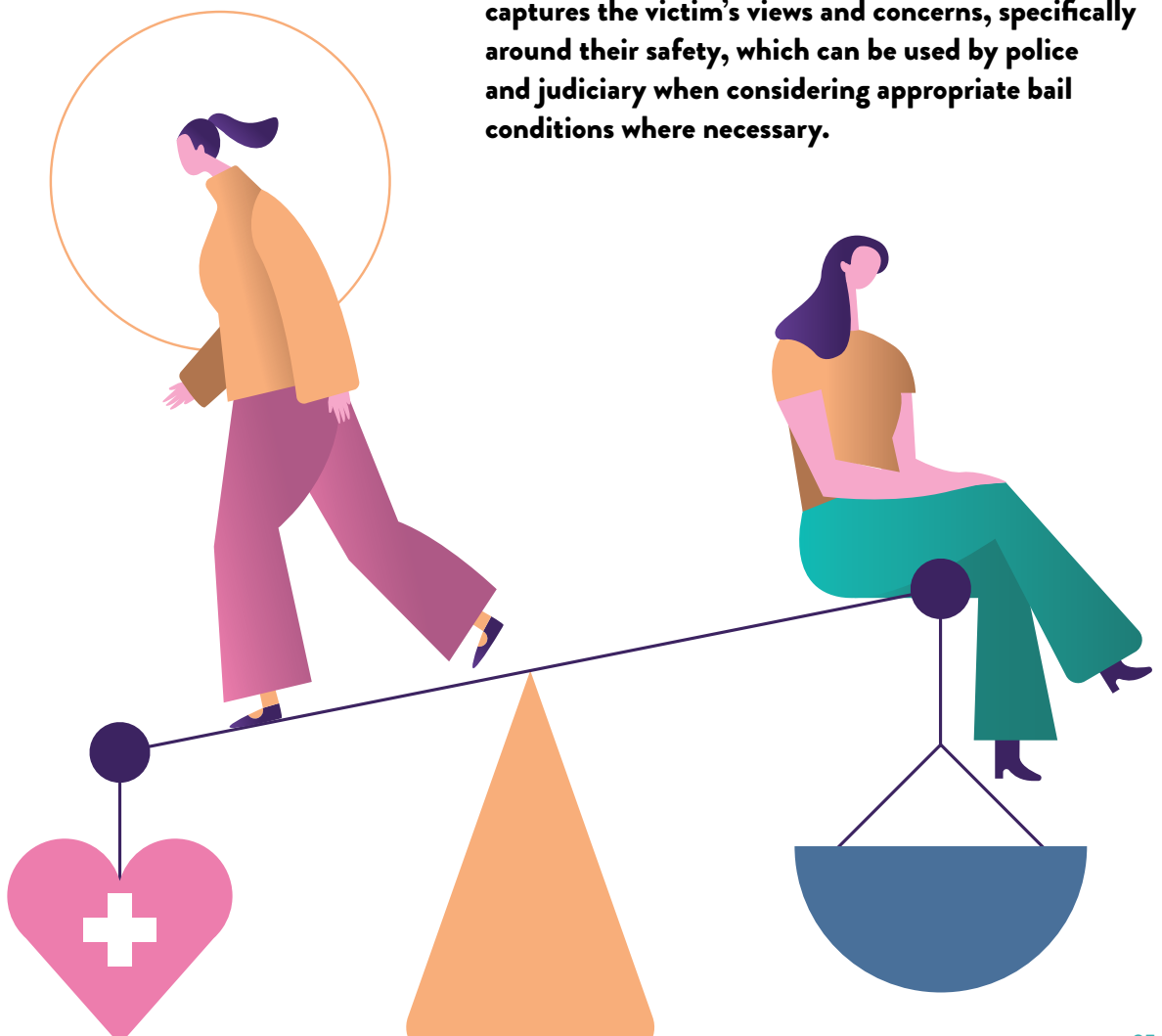
A victim can request to attend a hearing and address the panel, though we were informed by the Parole Commissioners NI that this has not happened to date. This topic formed part of the discussion at a PBNI facilitated victims focus group with CVOC. All victims in attendance felt strongly about being able to play a greater role in the parole process and they unanimously expressed a desire to be given the option to read their impact statement. Some stated that they would have wanted to do this with the perpetrator in attendance so that they could hear first-hand the wide-ranging impact their actions had on the victim and their families.

The Commissioner Designate is currently engaging with the Parole Commissioners, the Department of Justice and the PBNI to explore how we can possibly enhance the victims' voice and sense of participation in the parole process.

## Capturing victims' views to inform bail conditions

The current VPS scheme in Northern Ireland focuses specifically on the impact of the crime on the victim and its primary purpose is to help inform the sentencing decision to be taken by the judge. As outlined earlier in this paper, in England and Wales, VPS are taken by police early in the investigation and are also used to capture the victim's views about police pre-charge bail, particularly issues relating to the safeguarding of the victim. Such engagement permits the victim to share specific concerns about their safety and prior behaviour of the suspect which can greatly assist with the risk management and condition setting of the police.

**The Commissioner Designate would like to see a mechanism introduced in Northern Ireland which captures the victim's views and concerns, specifically around their safety, which can be used by police and judiciary when considering appropriate bail conditions where necessary.**



## Conclusion

VPS are a basic entitlement afforded to victims of crime. This right is enshrined in legislation through the Victim Charter for Northern Ireland. Our review of current operation evidences how victims are being failed through inadequate processes and practices which must be improved if victims are to truly have a voice at sentencing.

It is important to look at and learn from other jurisdictions in terms of how we make better use of this instrument. In considering the low uptake of VPS by victims and some of the reasons that might lie behind this, there is a strong argument for completing the VPS earlier in the process. In doing so, victims will have more time to reflect and consider their submission and support agencies will be better placed to manage the resource demand on their services. An earlier submission can ensure that disclosure checks can be made and that the statement is available to the court in advance of when it may be needed.

The strongest arguments against this tends to be the potential for cross-examination of the victim and the administrative burden of the disclosure process. The fact remains however that no matter how late in the process a VPS is submitted the possibility remains that its content could flag issues which could lead to the cross-examination of the victim or potentially be used as grounds for an appeal by the defence. Victims must therefore undertake a cost benefit analysis of whether completing a VPS outweighs any such risks. It is essential therefore that victims receive appropriate information about its purpose and potential use in order to make an informed choice. This choice is arguably better facilitated if offered earlier in the process.

When it comes to making use of VPS at sentencing stage, feedback has almost unanimously indicated a desire for victims to be given the entitlement to read out their statement in court. This will require consideration of legislative amendments as well as working out the practicalities operationally. It will require a strengthening of the

guidance and templates, which could mitigate the risks and concerns of the judiciary / defence counsel regarding victims straying outside of the VPS boundaries in a court setting.

Other key improvements and recommendations that need to be considered arising from this research relate to:

- The need for greater awareness and improved communication to victims regarding their entitlements and the timing of the VPS;
- The need for clearer guidance and training support for all key stakeholders and staff with a role at any stage of the VPS process
- Those delivering support to victims having adequate capacity to fulfil their roles

It is hoped that the findings and recommendations from this report help inform positive change and improve the experience of victims that wish to share their voice with the court.





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