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VICTIM SUPPORT SCOTLAND'S RESPONSE TO THE PUBLIC PETITION PE1403

1. Introduction

Victim Support Scotland is the largest agency providing support and information services to victims of crime in Scotland. In 2010-2011 our court based Witness Services and community based Victim Services supported around 160,000 people affected by crime. With the interest of victims and witness at heart, we are very pleased to be offered the chance to comment on this important petition.

2. Support services to victims of crime

In the first instance, many victims rely on family members and friends for support, which is an important step to overcome feelings of isolation. Family members and those in close relationships with the victims will, even if they are not directly involved themselves, experience their own intense distress about what has happened. Sometimes it may therefore be very difficult for the victim to tell, and for those close to the victim to hear, details of the crime. Some victims do not have support available from close family members and friends, or would prefer not to turn to them for help. It is therefore important that support is available elsewhere; voluntary support services for crime victims are a vital element in the victim's recovery process.

There is currently an unmet need for victim support services in Scotland. The recently published Scottish Crime and Justice Survey 2010/2011 highlights that

advice and support was received by 10% of victims of violent crime and 5% of property crime victim. However, the survey also demonstrates that victims would have liked advice and support for 20% of violent crime and 7% of property crime.¹ For violent crime, this leaves 10% of all victims with unmet needs. Compared with 2009/10, the proportion of crime where victims received advice and support has increased, which is very positive. The proportion of crime where victims would have liked advice and support has also increased, which demonstrates the need for additional resources in this area, to ensure all victims of crime are able to access support services in the aftermath of crime.

2.1 Victims and Witnesses (Scotland) Bill

The petition highlights the “need for new legislation and provision to protect, support and assist victims of crime”. Victim Support Scotland fully agrees with this aim and we work actively to ensure that all victims are offered access to support services in the aftermath of crime.

As opposed to for instance England & Wales and other European countries where a victim’s charter exists, Scotland has not introduced an overarching legislation that covers all aspects of victims’ rights. Instead, current legislation and Governmental policies have created different instruments containing rights for victims in Scotland. Inspiration is taken from the 2001 European Framework Decision on the Standing of Victims in Criminal Proceedings, currently providing legally binding rights for victims of crime across Europe.

As noted in the petition, the Scottish Government has created a Strategy for Victims that highlights three main rights: right to support; information and participation. To fulfil these three rights, a range of individual rights/policy decisions have been given to victims and witnesses in Scotland, such as:

- Support/information services
- Victim Impact Statement
- Provision of evidence in native tongue
- Special measures for vulnerable witnesses when giving evidence
- Victim Notification Scheme
- Compensation

In May 2011, the European Commission published its first Victims’ Package, including a draft EU Directive establishing minimum standards on the rights, support and protection of victims of crime. Victim Support Scotland has been

¹ *Scottish Crime and Justice Survey 2010/2011: Main Findings*, p. 57

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closely involved in providing input and recommendations into the development of this document. The draft Directive strengthens and amends some of the rights contained in the 2001 Framework Decision on the Standing of Victims in Criminal Proceedings, for instance victims' right to:

- access support services
- receive information
- be treated in a respectful, sensitive and professional manner
- protection
- being supported by professionals who have received appropriate training
- receive victim-focused restorative justice measures

Furthermore, the draft Directive also includes new provisions, such as:

- encouraging Member States to facilitate referrals from the police to victim services
- establishing measures to minimise inconvenience for victims during police interview
- definition of vulnerability
- giving victims the right to review a decision not to prosecute a suspect
- requirement for all EU Member States to conduct individual needs assessment to determine whether or not a victim should be seen as "vulnerable" and if special measures would be appropriate

The draft Directive is currently being negotiated by the EU Member States in the European Council and the European Parliament. There is a risk that the strength of the text may be watered down through the negotiations, but we encourage the Scottish and the UK Governments to maintain their invested interest in victim issues throughout the negotiations to ensure rights are strengthened throughout Europe. If the rights are watered down to the same level of rights contained in the 2001 EU Framework Decision on the Standing of Victims in Criminal Proceedings, the Directive is unlikely to bring any tangible benefits for victims across Europe.

The Scottish Government has indicated their intention to publish a Victims' Rights Bill during this Parliamentary term.² Victim Support Scotland looks forward to working with the Government and other key partners in developing the priorities for the Bill. In our Manifesto "*No Going Back*", we have highlighted some of our main suggestions how to strengthen the rights and services offered to victims and witnesses of crime.

² *Spending Review 2011 and Draft Budget 2012-2013, p. 126*

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2.2 Post trial support

The Scottish Government states that “[v]ictims are the most important people in the criminal justice system”.³ That does not mean that once the trial is over, victims should be left without any support or assistance on their way to recovery. Victim Support Scotland’s community based Victim Services provide emotional and practical support and information from when a crime has been committed until the victim no longer requires the services. We have established referral arrangements with all local police forces across Scotland to ensure that as many victims as possible are referred to Victim Support Scotland. Our aspiration is that this number will increase to ensure we can offer services to all victims of crime in Scotland.

The petition suggests that post trial support must be actively sought out by victims. We would agree that this is unfortunately often the case. Victim Services receive over 90% of their referrals from the Police. As such, our services are primarily offered in connection with the crime having been reported to the Police. Victim Support Scotland actively encourages other agencies to refer victim to Victim Support Scotland to ensure equal access to victim support services across Scotland. In our Manifesto “*No Going Back*”, we call on “all agencies working with people affected by crime to refer victims to victim support organisations who can give information, alleviate the emotional impact and help solve practical implications in the aftermath of crime”.

2.3 Tailored support services

Every victim reacts differently to crime. The victim’s individual reactions are based on factors including their personal characterises, coping mechanisms, social networks and previous experience of crime. It is therefore not possible to develop a “one size fits all” model for providing support services in the aftermath of crime. Victim Support Scotland is committed to ensuring that our services are tailored according to the needs of the victim. We therefore conduct a needs assessment for every victim to create our support package based on these needs.

According to resent research conducted by the Scottish Government, the most important factor to impact on overall perception of the criminal justice system is the manner in which victims and witnesses are treated throughout the system.

³ *Renewing Scotland: the Government’s Programme for Scotland 2011-2012*, (Sept 2011), p. 43

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This includes the behaviour and services given by all agencies working with the victim. To ensure quality services, the petitioner suggests the introduction of “guidance notes with regards to the minimum support organisations must provide”. Victim Support Scotland strongly supports the development of minimum standards for services to victims and witnesses of crime. As suggested in our Manifesto, the fulfillment of these standards should be measured by performance indicators developed for each criminal justice agency in contact with victims and witnesses.

In society, there is a general perception that the victims’ experience of justice and grief is linked to the outcome of the case. We believe it is very important to remember that a victim’s grieving process is separate from the criminal justice process. Numerous victims choose never to report a crime to the Police and many reported cases never reach the trial stage for a variety of reasons. The victims who are content with the outcome may feel a sense of justice once the case has been disposed of, which may assist them in their grieving process. For victims who are dissatisfied with the outcome of the case or the process itself, the criminal justice process could however be a source of re-victimisation rather than justice. Post trial support must therefore be carefully developed to ensure that the victim is given the opportunity to express their concerns and the impact of the trial process on their recovery.

3. Summary

Victim Support Scotland supports the petitioner’s call for new legislation to protect, support and assist victims of crime. We believe that the new draft EU Directive establishing minimum standards on the rights, support and protection of victims of crime strengthens the rights given to victims across Europe. Victim Support Scotland hopes that the ethos and content of the articles will not be diluted through the Member State negotiations. We look forward to working with Scottish Government, our partner agencies and our local services to ensure the Directive is implemented and provides real practical improvements for victims across Scotland. We would also support enhanced referral arrangements being developed to ensure that all victims of crime are able to access services to fit their needs before, during and after the trial process.