

Commission on Justice in Wales

Victims - Oral evidence session

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Victims Commissioner

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Commission on Justice in Wales

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1. Current position of victims in the justice system

VB – Special measures was a big improvement and the recognition that extra support was needed. There has been a victim code since 2004, victims champion before the Commissioner was eventually appointed. This flagged up the deficiencies in the system. My predecessor did a lot of work with victims of offenders with mental health problems. Things have got better but there are still problems. 46% people who have given evidence say they will not do it again. In my predecessor’s 2016 report, it says witnesses feel they do not receive timely information on the status of the defendant, that is bail nearby or custody far away, nor on progress of case, can feel abandoned and then required to attend court at short notice. Timely information is important – victims need to be treated with respect and as a key participant in the system. Procedural justice – being kept informed, given respect and high quality service gives victims the help to recover.

Large proportion of victims of sexual crime do not report the crime. This is a big problem and we need to give confidence to them. Victims are marginalised because of the adversarial process. Nobody has sole responsibility for victims’ needs and they fall in between agencies. I am not suggesting there should be competition between defendant right and victims’ rights. The two can be achieved. The Victims Code provisions have been discussed for years as being important but have not been implemented. There needs to be monitoring of the Victims’ Code. The Code is too long and it is needs to be sharpened imminently. MoJ are going to ask Police and Crime Commissioners (PCCs) to monitor compliance with the Code through the Criminal Justice Board. If there is no compliance, there needs to be an opportunity to address this, but nobody has the power to drive compliance. Part of my remit is to keep the Code under review and we think we should also monitor compliance at a national level. If we don’t monitor compliance we don’t know who else can. When I was PCC I went out every year to speak to police officers and I used to ask them we don’t they keep witnesses informed and they told me others should do that role as they do call after call and will have move on to other work so don’t do it.

RA – We visited the Netherlands this year and the system there is much better funded and

they have more powers. We can ask our contacts in the Netherlands whether they can supply you with information. In Netherlands, I think victims have greater powers. They do not have a Victims' Commissioner.

VB – The victim should be involved in discussions on the justice system from the outset. The victim needs to be involved from the start.

MT – Victim Support offer support through the whole criminal justice process and not just the trial process. The key thing for Victim Support is to get involved as early as possible and to remain involved for as long as the victim needs them. In terms of courts we have moved a long way. I work in Gwent area and we work in a hub around the corner from victim care unit and other partner agencies. This has assisted in linking up. Witnesses want to be updated on every aspect of the case. Communication is a key issue for victims and witnesses. Victims constantly raise issues with communication and that they just want to be kept up to date by the police and the court. Even being told that there isn't a substantial update is welcome

Trials change very often at the last minute. This affects witnesses. Very difficult telling people that they are not now attending court the following day but at some stage in the future.

We are involved with all victims even when there is no known offender. We are clear that we support victims even if they do not report the crime to the police. Unfortunately people are not reporting sexual offences and we will support them and ask them whether they will re-consider but we will not pressure them.

VB – If you are looking at the structures for witnesses it is sensible that PCCs who commission the work should also do the court based support work. Specialist support such as IDVA (Independent Domestic Violence Adviser) is not well understood by the court. The victim will go to court and greeted by court victim services that takes them away from IDVA, assuming it's a sister or friend. We observed 30 rape trials in Newcastle Crown Court and saw that similarly ISVA (Independent Sexual Violence Advisers) were being left behind when the complainant was taken to give evidence. In Domestic Violence courts IDVAs attend all hearings. IDVAs are usually funded by local authorities and ISVAs from the victim fund.

MT – In Gwent our services are funded by PCCs. Support is very different between burglaries and sexual offences. Domestic Violence should be picked up by IDVAs. However, there is confusion where people go and people fall through the net. If they do we pick them up. We have a lot of people contacting us who have not been in touch with IDVAs. The situation is different in South Wales Police area. We get referrals from a lot of different sources. We try and to go out to local authorities to make sure we do not miss referrals and people being left behind. There is a bit of post code lottery but services have become more local and there is a lot of community working. There is better knowledge with PCCs that they know where to plug the gaps. There is competition between various charities and services for funding. There is an overlap with agencies and a lack of co-ordination. We try and e the point of contact in Gwent until they find the best service for the victim. Essential to us is that we catch as many people as we can.

VB - In Northumbria victim services, the victims' hub receives referrals from the police and responds within 48 hours. The PCC does a landscape review every year to see where the

gaps are. Almost all victim services come from the PCC. In England we only have community safety partnership and not public service boards. The IDVAs are lent to PCCs from local authorities. There is a lack of integration between victim services and the court. An ISVA (Independent Sexual Violence Adviser) support worker cannot sit with the victim whilst given video evidence. This is not the case with IDVA. Since 2016, CPS advocates talk to the witnesses before the trial but this is still not satisfactory since it is usually just before the trial starts.

MT - The need in Gwent is different in areas such as Blaenau Gwent, Newport, Torfaen and then Monmouthshire. There will be more local services in places like Newport. We cover the whole of Gwent and offer service to all. I will need to come back to you on the services local authorities have to supply and whether they are under strain in certain poorer areas. I would also be able to provide information from other areas.

Victims' understanding of the justice system

VB – It is not universally the case that victims want a severe sentence. There needs to be better understanding of sentencing for victims and defendants. There should be an automatic and free right for a written copy of the judge' sentencing remarks so both can fully understand the sentence. I think procedural justice is key to getting victims to understand sentencing and understand rehabilitation, because that makes them feel as if they have been treated well and so can take away some of what might otherwise be leftover resentment aimed at the defendant. Special measures need to be considered carefully in every court and needs of the victim taken into account, for example, if screens are used in court, make sure they do not have to pass defendant's family in the court building.

MT – We manage the expectation of victims. For a lot of people the date of the sentence is the end but we try to assist helping victims to get on with their life. A lot of the work we put in is to explain what could happen and prepare them. We have dealt with a lot of people who did not get the sentence they wanted and we then talk through the sentence. We meet with CPS often but I'll get back to you with how often we meet with the judiciary. Long distances to court is challenging for witnesses especially in rural areas and will make people less likely to go to court but technology can have a role to overcome issues caused by court closures. The last minute changes to trial proceedings makes it very hard for people to get to work. Knowing that beforehand makes it less likely for people to get to court. I think that does have an impact on the number of people who give evidence.

VB – Long distances and poor public transport does affect witnesses. In Northumbria there is only one Crown Court covering 1.2 million people. It has been specified that people should not have to leave the house before 7.30 and return by 7.30 in the evening. We have 4 remote evidence centres in Northumbria that save people coming all the way to court. It has been extremely slow to get these centres to be used. On rare occasions, very elderly people and infirm have given evidence through secured Skype. Technological help can help. Section 28 video-links, when rolled out, will help as it will adapt to the need of victims.

MT – Video evidence can sometimes be problematic but very important for vulnerable people. It is not used regularly but we can have that conversation with a victim. I have not seen it regularly. In Gwent the distances are not too far. I will ask my colleagues for experiences in other areas in Wales and the view of the judiciary being willing to grant video evidence from another place.

What Welsh language capacity do you each have? Are all your services provided in Welsh?

MT – We cater for Welsh language clients and we have Welsh speakers in the office. We do offer the service. We will always ask whether a victim requires support in Welsh or wants to give evidence in Welsh.

VB - We don't have any capacity to provide resources in other languages. We only have six members of staff, most part-time

How, if at all, would you see your roles changing if justice was devolved to Wales?

MT – There is no major differences between us and England. Whilst policing and justice system is not devolved but some devolved areas do impact victims. Locality and knowing the areas in which we operate means we meet local needs.

VB – The role would change in that we would engage with Welsh Ministers in the same way that we currently engage with Westminster Ministers. We can learn from each other. My first visit to PCCs is to be to South Wales and Gwent before going to North Wales and Dyfed Powys. The National Assembly is advanced on domestic violence and I will be keen to speak with them.

RA - In the past we have visited all PCCs. We have not had direct contact with the National Assembly. If there was a Welsh Minister of Justice we would of course engage.

The rate of prosecution is falling. Do you have any observations you wish to share on this subject?

VB - There is a right of review of police decisions. The right of review with CPS is narrow, only if they do not charge. The review section of CPS is separate from local area. There is a

concern on rape prosecutions and I'm not sure about the quality and effectiveness of the review system. I don't think the police encourage it enough and don't question CPS decisions enough. There is a massive funding issues stopping the police from investigating and CPS to prosecute.

MT - A victim I was dealing with recently went through the review process. The victim meet with the CPS and had an explanation but did not know what to do afterwards. I do not see it as often as we should. The lack of reporting of offences is an issue and lack of communication from the police. Victims feeling like offenders and victims not being given he option to make an impact statement affects a victim. Pre-trial we are looking a long waits before trial with lack of communication and quick change in trial date. At court, need to look at stopping avoidable adjournments and change of location. Stopping aggressive cross examination. Following the trial sentences need to be explained better. People need to feel that they are being respected and treated sensitively.

There have long been very real problems around disclosure. We would be grateful for your views.

VB - Disclosure is a significant problem. In rape, one dip sample suggests up to 75% of complainants who have not pursued the complaint is because victims are concerned about privacy issues. This level of demanding material does not happen in other type of offences save for sexual offences. This shows how myths are still prevalent. The CPS and police drafted a digital download consultation but we have said they should withdraw it. It is not right that complainants are expected to disclose all information straight away. It needs to be put into comparison with other type of cases. There is a small pilot in Northumbria providing free legal advice for complainants in rape cases on the issue of digital and third party disclosure. If the police look so widely and find something which is irrelevant to the trial it can be used in trial.

MT: This is a huge issue about complainants being worried about disclosing phone as you give people your whole life. Taking somebody's mobile and laptop gives a lot more information that they expected. This is a huge step up from giving a statement.

Do you have any suggestions of things we should recommend in the treatment of victims?

VB - Victims need to feel that they are receiving justice and that vulnerable victims are treated with care. I would welcome judges who reach out more. It is a shame that Max said he has not had much contact with judges. Judges should work more with others and have a key role. In Northumbria the Resident Judge always came to the Criminal Justice Board. The Resident Judge played a key role and assisted in matters because of the authority the role brings. Things are getting better and of course they need to keep away from political issues, but they need to be more proactive. The Resident Judge came to Criminal Justice board after the PCC started to chair them. If the Resident Judge can't be there, he sent another judge. This has been beneficial due to better communication. The judge was able to help in seeing what was not working and what he could do. The Resident Judge is also on the oversight group on the disclosure pilot in Northumbria. Issues came up in meetings and it was very effective having

him there. On both groups the Resident is an observer but is active

MT - Communication is an issue from everyone to victims and needs to improve. The flow of services needs to be streamlined. We must not "re-victimise" victims by them needing to tell their story several times to several agencies.