

## VICTIM SUPPORT NORTHERN IRELAND

### SUBMISSION TO BILL OF RIGHTS FORUM - WORKING GROUP ON CRIMINAL JUSTICE & VICTIMS

#### INTRODUCTION

Victim Support Northern Ireland is an independent charity striving to support people affected by crime. We offer community and court based services to anyone affected by crime, irrespective of when the crime happened, the motivation for the crime or if it has been reported to the police. These volunteer delivered services include:

- active listening and practical support in the aftermath of crime;
- information on what to do after crime;
- referral to other sources of support;
- during the criminal justice process we can help people obtain information about the progress of their case;
- help with the Criminal Injuries Compensation claim process including representation at appeals;
- the Witness Service, which provides support before, during and after the court process.

Victim Support, as the largest victim's charity in Northern Ireland welcomes the opportunity to input into the ongoing development of a Bill of Rights for Northern Ireland. It is our view that a Bill of Rights should include explicit rights for victims and indeed other people affected by crime, as the experience of crime has often devastating effects on individuals, families and communities, and victims require to be recognized in their own right, rather than a useful piece of evidence within an adversarial criminal justice system.

It is our view that the development of a Bill of Rights for Northern Ireland represents an opportunity to provide rights for victims which are hitherto absent from Northern Ireland legislation and to go further than existing international instruments.

#### Existing International Instruments

Victim Support would request that the development of the Bill of Rights for Northern Ireland must take cognisance of the following:

- UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985);
- Council of Europe Recommendation on the Position of the Victim in the Framework of Criminal Law and Procedure (1985);
- EU Framework Decision on the Standing of Victims in Criminal Proceedings (2001);
- Council of Europe Recommendation (2006)<sup>8</sup> on Assistance to Crime Victims (2006);
- Protocol to Prevent, Suppress and Punish Trafficking in persons, especially women and children, supplementing the UN Convention against Transnational Organised Crime (2000).

From these instruments there appears to be an international consensus regarding the nature and the extent of victims rights in the Criminal Justice context. These principles are as follows:

- The right to respect and recognition at all stages of the criminal proceedings;
- The right to receive information, and information about the progress of the case;
- The right to provide information to officials responsible for decisions relating to the offender;
- The right to have legal advice available, regardless of the victim's means. This has been extended by Articles 5 and 7 of the EU Framework decision (2001) to include translation facilities and interpreters equal to those available for defendants, and rights to reimbursement, respectively;
- The right to protection for victims' privacy and their physical safety;
- The right to compensation, from the offender and the State;
- The right to receive victim support services;
- The right that governments seek to promote mediation in criminal cases for offences which it considers appropriate for this sort of measure;
- The right that the state shall foster develops and improve co-operation with foreign states in cases of cross border victimization.

Victim Support would ask that victim's rights contained in a Bill of Rights must relate to all of the above.

#### Existing National Instruments

Victims of crime have few legislative rights in Northern Ireland, namely:

- Access to information from the Northern Ireland Prison Service and PBNi via their Victim's Information Schemes ( e.g. on the release and temporary release of the offender);
- Right to attend a Youth Conference when directed by the court or diverted by the PPS (although the Conference can still go ahead if the victim declines to participate);
- Victims of violent crime can have rights to state compensation via the Criminal Injuries Compensation Scheme (2002)

There is a significant disparity between the provisions for victims and witnesses of crime, within the Criminal Justice system in Northern Ireland compared with England & Wales (Appendix ). The inclusion of specific rights for victims in the Bill of Rights is a vital step to begin addressing these gaps, and we welcome the following extract from the current NIHRC draft at Section 10 Paragraph 1 "Legislation shall be introduced to effect to the following.....". We would re-iterate that the Bill of Rights provides an opportunity for Northern Ireland to exceed current international best practice with regard to the treatment of victims by criminal justice systems.

#### Comment on Section 10 of the NIHRC draft/Proposed amendments

Our comments are in bold as follows:

(1) Legislation shall be introduced to give effect to the following rights:

(a) the right of every victim to be treated with fairness, compassion and respect for his or her dignity.

Victim Support understand from research and experience the most common needs expressed by victims are to be treated with fairness, dignity and respect.

(b) the right of every victim to be informed of and receive a level of social care and support in accordance with his or her needs, particularly in respect of personal security and access to health care, income support, employment, training and education.

Victim Support agree with the proposed amendment from WAVE as the main identifiable need for victims is information, and that the effects of crime extend beyond the remit of the criminal justice system i.e. social rights.

(c) the right of every victim to obtain redress by way of restitution or compensation through formal or informal procedures that are expeditious, fair, and accessible.

(d) the right of every victim to have the crime or human rights violation in question investigated promptly, impartially and thoroughly.

e) the right of every victim to be informed of the progress of any relevant investigation and to have his or her concerns taken into account in the conduct of any relevant legal proceedings.

(f) the right of every victim to reasonable assistance during the trial of any person charged in connection with the crime or human rights violation in question.

Other substantive rights to be conferred should include:

- The right to be informed of and receive, victim support services;
- The right that the state shall foster, develop and improve co-operation with foreign states in cases of cross border victimization.

(2) With a view to promoting the principles of truth and reconciliation in the aftermath of a lengthy period of conflict, the Government shall take legislative and other measures to ensure that the loss and suffering of all victims of that conflict and the responsibility of state and non-state participants are appropriately and independently established and/or acknowledged.

Victim Support recognise that individuals and organisations may identify themselves as victims of the “troubles”, and may assert their requirements for specific recognition – largely borne out of the fact that they have usually become victims as they are “representatives” of a wider group or community, and that their status is more than an “ordinary victim of crime”. Victim Support would state that it is vital that all victims are treated fairly, equally and with dignity, and that no hierarchy should be perpetuated by the drafting of this Bill of Rights, itself intended to redress inequality and protect human rights. All victims should be protected under the Bill of Rights, including victims of “ordinary crime”.

(3) In this section “victim” means a person who, individually or collectively with others, has suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of his or her fundamental rights, through acts or omissions that are in violation of criminal laws or human rights standards. The term also includes, where appropriate, the family of such a person, his or her dependants, those with whom the victim has a close relationship and persons who have suffered harm through witnessing or in intervening to assist a victim in distress or to prevent victimization.

Victim Support would ask that the definition of victim i.e. anyone who can invoke this aspect of the Bill of Rights, include witnesses.

## Conclusion

Victim Support is committed to ensuring that the Bill of Rights for Northern Ireland includes specific protections for victims and witnesses of crime as a legislative framework and enforcement of the same, will afford victims the necessary recognition, treatment and support to ensure that they do not suffer any further harm e.g. secondary victimization does not occur, and that they are enabled to recover.

Victim Support would wish to support the work of the Bill of Rights Forum Working Group, and are interested in discussing our views in more detail.

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Appendix

GAP BETWEEN PROVISIONS FOR VICTIMS & WITNESSES IN NORTHERN IRELAND

Theme	Provision in England & Wales	Provision in Northern Ireland
PSA Target	"Deliver a more effective, transparent, and responsive Criminal Justice system for victims and the public".	"The public of NI have confidence that the Criminal Justice System is delivering timely and effective Justice for everyone"
Legislation	Domestic Violence, Crime and Victims Act 2004 confers legislative rights on victims and witnesses; and established a Code of Practice for Victims of Crime (see below).	There is no statutory support for the implementation of the CJSNI agenda in relation to victims and witnesses.  CJSNI have recently launched their 5 year Victim and Witnesses Strategy "Bridging the Gap"
Code of Practice	From 3 <sup>rd</sup> April 2006 the Code of Practice for Victims of Crime was launched. This statutory code sets out what victims and witnesses can expect of each CJ agency, and is binding on each agency. It includes victims rights to: <ul style="list-style-type: none"> <li>• Information if someone is arrested, charged, bailed or sentenced;</li> <li>• Timescales;</li> <li>• All victims to be told about Victim Support and either referred to or offered the service</li> </ul>	A non-statutory Code of Practice is to be developed by the Vulnerable Victims and Intimidated Witnesses Steering Group, a subgroup of the Criminal Justice Board. The code is to be drafted by March 2008.
Right to complain	If a victim or witness, entitled to the protection of the Code, is dissatisfied with the service they have received, they are able to take their case to the Parliamentary Ombudsman via their MP.	If a victim or witness is dissatisfied the only course of action available is to complain through each agencies complaint process.
Lead Agency	Office of Criminal Justice Reform drives the agenda; it is a cross cutting department to support all CJ agencies.	The Victim & Witnesses Strategy is driven by the Criminal Justice Board, and Criminal Justice Reform & Delivery Division, of the NIO.  As Criminal Justice remains un-devolved, there are obvious issues around the priority given to the delivering of CJSNI objectives compared with OCJR.

Agenda for CJS	<p>The CJS Strategic Plan current agenda includes:</p> <ul style="list-style-type: none"> <li>• Establishment of a Victims Commissioner to provide a voice for victims at the heart of government</li> <li>• Placing Victims Advisory Panel on a statutory basis</li> </ul>	<p>Current agenda is detailed in the Action Plan for 2007-08 and includes:</p> <ul style="list-style-type: none"> <li>• Code of Practice development;</li> <li>• Final agreed proposals for establishment of an information and support facility for victims and witnesses of crime, to be piloted on 2008-09</li> </ul>
Support in CJS	<p>Witness Care Units are in place across England &amp; Wales. These are run jointly between the police and the CPS to provide information, support and advice e.g. on transport and childcare, to witnesses.</p>	<p>There are no Witness Care Units in NI. The PPS have some Community Liaison teams, but they do not have the resources to provide the range of services provided by Witness Care Units and only relate to witnesses attending the Magistrates' Court.</p>
Police Referral to support services	<p>Governed by the ACPO Agreement and implementation of Police's duties under the Code of Practice for Victims of Crime.</p> <ul style="list-style-type: none"> <li>• Referral to Victim Support remains inconsistent across some areas. Para 5.4 of the Code of Practice states police must explain details will be passed to Victim Support, and the victims contact details must be provided to Victim Support no later than two working days.</li> <li>• Electronic Transfer of information occurs between some constabularies and Victim Support areas.</li> </ul>	<p>Governed by the ACPO agreement.</p> <ul style="list-style-type: none"> <li>• There is a continuing problem with referrals from PSNI to Victim Support. Current implementation of the ACPO agreement has led to less victims of crime hearing of/being referred to victim support services. Some referrals can take up to 2 weeks to be referred.</li> <li>• Information currently received by CD and inputted into Victim Support IT system.</li> </ul>
Support Services for victims	<p>"Enhanced Service" Model now being implemented by Victim Support in England &amp; Wales, supported by the Home Office. This entails victim needs assessment and funded practical support and requires support of timely police referrals, and Code of Practice.</p>	<p>Victim Support delivers support in the community and court settings; we are currently exploring the development of a needs assessment toolkit, and service delivery models in England &amp; Wales.</p>
Support Services for witnesses	<p>Victim Support's Witness Service available in all the criminal courts.</p> <ul style="list-style-type: none"> <li>• Consent for transfer of witness details obtained at statement stage;</li> <li>• Defence witnesses supported</li> </ul>	<p>Victim Support's Witness Service available in all the criminal courts.</p> <ul style="list-style-type: none"> <li>• No transfer of witness details to witness service (current proposal that consent obtained at request to attend stage);</li> <li>• Defence witnesses not supported.</li> </ul>

This paper should be read in conjunction with the following:

- "Bridging the Gap between needs and service delivery 2007-2012", CJSNI, September 2007
- Code of Practice for Victims of Crime, OCJR, October 2005.
- "Cutting crime, delivering justice", CJS Strategic Plan, 2004-2008

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