



# **Victims in the Criminal Justice System**

## **Phase II**

**November 2011**

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## **EXECUTIVE SUMMARY**

### **Introduction**

This is the second joint inspection by the Inspectorate of Prosecution in Scotland (IPS) and Her Majesty's Inspectorate of Constabulary for Scotland (HMICS) into how victims<sup>1</sup> are treated within the criminal justice system in Scotland. The first joint report, covering cases where no court proceedings were commenced, was published in October 2010<sup>2</sup>.

### **Background**

In 2001 the Scottish Government document 'The Scottish Strategy for Victims'<sup>3</sup> hereinafter called the Strategy was launched. It was developed in response to developments throughout Scotland, Europe and internationally, including the United Nations declaration of basic principles of justice for victims of crime and abuse of power. The Strategy was strengthened by the development of National Standards for Victims of Crime<sup>4</sup> which was launched by the then Scottish Executive in 2005.

The three main objectives of the Strategy are:-

1. To ensure information provision to victims (both in respect of the criminal justice system generally but also concerning the case in which they are involved).
2. To ensure provision of emotional and practical support to victims.
3. To achieve greater participation by victims in the criminal justice system.

The Scottish Police Service and Crown Office and Procurator Fiscal Service (COPFS) have both committed to the Strategy which, as with our first report, provided the baseline for our inspection.

### **Overall**

This phase of our inspection deals with cases in which court proceedings were commenced at a summary level either in the Sheriff Court or Justice of the Peace Court.

The writing of the report is 'timeline' based from the initial reporting of a crime to the police through to prosecution and post trial handling. We examined two types of crime namely assaults and thefts including housebreaking. Three police forces and their associated Procurator Fiscal Areas were examined during the fieldwork phase. These were Lothian and Borders (City of Edinburgh), Dumfries and Galloway and Fife.

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<sup>1</sup> A victim is for the purposes of this inspection the natural subject of any type of crime or, where a death has occurred, the next of kin. This is consistent with the definition used in 'The Scottish Strategy for Victims'.

<sup>2</sup> Joint Thematic Inspection Report by Inspectorate of Prosecution in Scotland and Her Majesty's Inspectorate of Constabulary for Scotland – Victims of Crime in the Criminal Justice System – October 2010. Available at [www.scotland.gov.uk/Resource/Doc/327055/0105496.pdf](http://www.scotland.gov.uk/Resource/Doc/327055/0105496.pdf)

<sup>3</sup> The Scottish Strategy for Victims – Available at [www.scotland.gov.uk/Resource/Doc/158898/0043164.pdf](http://www.scotland.gov.uk/Resource/Doc/158898/0043164.pdf)

<sup>4</sup> The National Standards for Victims of Crime – Available at [www.scotland.gov.uk/Resource/Doc/36496/0024967.pdf](http://www.scotland.gov.uk/Resource/Doc/36496/0024967.pdf)

## Main Findings

### *Scottish Police Service*

Overall victims reported positively on their experience of reporting a crime to the police, and those forces examined had clear processes in place for dealing with the initial contact with victims of crime. However only one of the three forces explicitly included a victim's vulnerability or risk as a factor in determining how urgently the police responded to the call.

Consequently in Recommendation 1 we call for Chief Constables to ensure that police forces call grading and attendance policies explicitly identify victims' vulnerability and risk as factors to be considered when determining the appropriate call grading and initial response.

We found that all three police forces determined victims' needs by a combination of information available via technology used in their contact centres and the experience and skills of the call handlers. We found good practice in Lothian and Borders Police where there was an integration of police databases which enhanced the quality of information passed to officers attending calls.

Our own research supported the findings in the Scottish Policing Performance Framework<sup>5</sup> regarding victims' satisfaction levels with the initial police response which was generally good. We found that officers were aware of repeat victimisation but that only one force had a published policy on addressing repeat victimisation. We noted developments in this area throughout the UK and in Recommendation 2 call on Chief Constables to ensure that police forces develop and implement repeat victimisation strategies in order to provide a robust and appropriate response to the needs of repeat victims of crime.

In 2008 HMICS published a report on the quality of service and feedback to users of the police service and identified that police forces were poor in keeping victims updated of the progress of the investigation.

Our evidence suggests there has been mixed results in terms of improvement in this area, reinforced by the 2009-10 Scottish Policing Performance Framework where satisfaction levels across police forces ranged from 57% to 92%. What is clear is that users were less satisfied with how the police provided feedback when compared to the initial contact they had with officers. Our own survey of victims underlined this with satisfaction levels falling from 98% at initial contact to 76% for feedback on progress of the investigation.

All three of the forces inspected had different approaches to communicating with victims with only one publishing a timescale by which a victim would be updated. We noted work undertaken within Dumfries and Galloway Constabulary which had developed a broad strategy tackling public reassurance and feedback to victims

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<sup>5</sup> The Scottish Policing Performance Framework is compilation of police performance indicators collected by forces and published annually by The Scottish Government. It provides comparative information between forces and from year to year where the data is available.

resulting in satisfaction levels rising from 58% to 73%. The basis of the approach was published service standards supported by clear leadership and a performance management process. As a result in Recommendation 3, in an effort to improve satisfaction levels amongst victims, we recommend that Chief Constables set, publish and deliver clear service standards for feedback to victims of crime.

We also examined the use by police of the Appropriate Adult Schemes<sup>6</sup> which exist throughout Scotland to facilitate communication between the police and people who suffer from mental disorder and the police. As well as examining force policies we carried out a survey of all call-outs for Appropriate Adult Schemes in Scotland during February and March 2011. Whilst the results were inconclusive in terms of the nature of the crimes where police use Appropriate Adults it did show that one third of call outs were for victims and that there was an appreciation of the service offered by Appropriate Adults by police officers.

The inspection examined processes within the three forces to manage contact with victims and noted new developments within Fife Constabulary where a Victim Contact Plan was agreed between the reporting officer and the victim reporting the crime. We found that victims often proactively contact the police seeking an update and that processes in the forces inspected were inconsistent in how these enquiries were dealt with and recorded. In Suggestion 1 we suggest that Chief Constables ensure that police forces introduce policies that will ensure that all contacts between victims and the police are recorded.

Building on this we recognise the important role of information technology in ensuring that service standards are delivered. On this basis we recommend in Recommendation 4 that Chief Constables work with the Scottish Police Services Authority to ensure that any new national crime recording system being developed should support delivering a service to victims including recording of victim updates.

In reporting a case to COPFS we noted that in the Standard Police Report (SPR) there is very little reference to or consideration specifically of victims, the report being essentially offender focused. We highlighted in our first report that the victims' agenda had been subsumed by the wider witness agenda. We felt that given the critical and unique role of victims in the criminal justice system and their focus through the Scottish Strategy for Victims that they should be clearly identified as being a victim in the SPR. This would help deliver a service to victims later in the criminal justice process. This is detailed in Recommendation 5.

We explored how victim participation in the criminal justice process could be enhanced by including information on the victim's views on the impact a crime had on them including financial loss. We noted the approach in England and Wales which has been in existence for some time and that COPFS staff welcomed victim impact when it was provided. However we found that there was no clear agreement between police forces and COPFS ensuring police officers routinely provide this information.

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<sup>6</sup> Further information on Appropriate Adult Schemes is available at:  
[www.scotland.gov.uk/Topics/Justice/law/victims-witnesses/Appropriate-Adult](http://www.scotland.gov.uk/Topics/Justice/law/victims-witnesses/Appropriate-Adult)

Recognising the wider principles of the Scottish Strategy for Victims to enhance victim participation, in Recommendation 6 we recommend that police forces and the COPFS introduce procedures that will ensure that victim impact information is captured and reported for cases at summary level in order that the perception of a victim can be considered at different stages of the criminal justice process.

## *COPFS*

We found evidence of strong leadership both at Ministerial level from the present (and former) Lord Advocate. This was also true at official level and training in victim issues has grown since our first report.

We recommended in our first report that consolidation should take place in relation to COPFS' commitments to victims (and witnesses) of crime and we found this has happened by the production of two public facing documents in leaflet and booklet form backed up for staff by a handbook. We did find some overlap and possible confusion in the information available on the COPFS website and so recommend in Recommendation 7 that COPFS consolidates the material available on the website and removes older material.

During the inspection we examined to what category of victims COPFS provides information. We found that the current policy means that only those victims who are referred to the COPFS Victim and Information Service (VIA) would receive ongoing information about the progress of their case. Whilst there was evidence of satisfaction with the service provided by VIA the number of summary cases referred to them outwith categories such as domestic abuse was found to be very small.

All other victims were required to seek information themselves by contacting the COPFS. We observed that victims would be unaware of this "opt in" system and significantly that this approach fell some way short of the commitments within the Scottish Strategy for Victims.

We examined the information that is provided to victims cited to attend trials as witnesses ie the 'Being a Witness' booklet. We noted that the information provided was good and in Suggestion 2, ask that to facilitate contact the phone number for the COPFS Enquiry Point be added to the booklet.

Building on this we explored the impact of information provision on a victim should a case be adjourned and witnesses countermanded. We found the countermand notice did not explain fully what this meant for the witness. In Recommendation 8 we ask that a sentence be added advising witnesses that they will (or not) be required to attend in the future.

Our telephone survey of victims together with consultation with bodies such as Victim Support Scotland found that a significant number of respondents stated that they were not satisfied with how well they were kept informed of the case by COPFS.

We found some examples of good practice such as within Dumfries and Galloway Area Procurator Fiscal Office where COPFS literature was prominently displayed and talks were delivered on the issue to community organisations. However we remain of

a view that current COPFS policy on information provision is unclear. Therefore in Recommendation 9 we recommend that COPFS ensures that it proactively provides all victims with the information they need when they need it.

We examine in some detail the type of cases currently covered by VIA and the addition of a new “other cases” category of referral introduced since our first report. Whilst we welcome the addition of this category and the potential widening of the coverage by VIA we noted that the COPFS IT system had not been adapted to include the category thus undermining its effectiveness. We ask that this be addressed in Suggestion 3 thus improving the monitoring of referrals.

On the question of identifying and reporting on a victim’s vulnerability we explored the roles and responsibilities of both the police and COPFS and examined training provided to police officers at The Scottish Police College which we found to be extensive for probationary constables but requiring some improvement for first and second line managers. We noted guidance issued to COPFS staff on their roles and responsibilities in this area and the development of bespoke training for staff.

During fieldwork it emerged that the police were good at identifying and reporting on obvious vulnerability categories such as disability but that the identification of more hidden vulnerability such as mental health problems was more challenging. COPFS staff stated that the lack of information on vulnerability could have a negative impact on any resultant criminal justice process and that it was key to identifying whether special measures would be needed in court. We recognise the importance of identifying victim vulnerability but understand that it is challenging for both the police and COPFS.

Given the importance of vulnerability to the criminal justice process we ask in Suggestion 4 that Chief Constables and COPFS should continue to promote policies which are aimed at supporting vulnerable victims of crime and should monitor their use and effectiveness.

We also examined the subsequent role played by COPFS in dealing with victim vulnerability. We found good support for the work of VIA including evidence of a positive working relationship with Victim Support Scotland Witness Units within courts. We again found that the reporting of vulnerability from the police to COPFS was generally good but lacking where the type of vulnerability was less clear. However overall we found that where vulnerability information is provided the service delivered was well received.

Turning to victims’ experience where they are required to attend at court, the availability of a range of disposals together with the potential for pleas at stages before a trial means that only a very small number of victims actually have the opportunity to give evidence in summary cases.

This was reflected by the fact that we had difficulty in obtaining sufficient data on victim participation at this stage during our audit and telephone survey. We explored the continuing problem of trials being adjourned or ‘churned’ and noted initiatives being led by the Scottish Government and involving the Association of Chief Police Officers in Scotland (ACPOS) and COPFS to improve witness attendance at court.

We noted that COPFS currently have no statistics relating to witness court attendance and question, in the absence of such figures, the ability to monitor performance in this important area. Consequently in Recommendation 10 we ask that COPFS should consider ways to improve the COPFS IT system to allow for analysis of victim/witness attendance at court.

We also looked at how victims were treated after court proceedings whether there had been a trial or not. This included the service provided to victims when claiming expenses incurred for attending court. COPFS has made a clear commitment to inform victims and witnesses how to claim their expenses and to deal with claims quickly. We explored this during our telephone survey and found a high level of customer satisfaction.

We also examined the extent to which COPFS informs victims of the outcome of cases, building on the principle expressed in our first report and endorsed by Victim Support Scotland, that victims should receive proactive information on the various critical stages of the progress of a case including final outcome. Our telephone survey of victims found that many were dissatisfied with not being told the final outcome of their case by COPFS. In light of this in Recommendation 11 we recommend that COPFS inform victims of the outcome of their cases.

Finally we examined procedures around the return of property belonging to victims/witnesses which had been taken as part of the case (known as productions). Whilst our survey found that there was little concern expressed by victims we were made aware of issues between COPFS and police forces relating to returning property. Whilst COPFS policy is clear we found a significant variation in practice which has a negative impact on both police forces and property owners. Consequently in Recommendation 12 we ask police forces and COPFS to develop and implement an agreement between them which details clear procedures that will ensure the efficient return of property to victims and owners after the conclusion of a case.

## Conclusion

We recognised that an issue which arose consistently throughout the inspection, and was strongly evidenced both in consultation with external organisations and in the telephone survey of victims, was the provision of information to victims on the progress of their case. We note that the Scottish Strategy for Victims places the onus on agencies to proactively provide victims with updates and that both the police and COPFS have made a commitment to comply with this.

We noted evidence that whilst the police forces we examined do have a policy of updating victims on the progress of an investigation, satisfaction levels for this remain lower when compared to satisfaction with initial contact. The current policy of COPFS on how it provides information to victims falls some way short of the requirements of the strategy to which it has committed and was reflected in the responses from victims consulted during our survey.

We conclude by identifying that the consistent issue which emerged from the inspection was the need to update victims through all stages of the criminal justice process. Consequently the principal finding of the report is that police forces and COPFS should set and deliver clear service standards for the proactive updating of victims as to the progress of their case, including the outcome of the case.

## **SUMMARY OF RECOMMENDATIONS AND SUGGESTIONS**

### **RECOMMENDATIONS**

#### **Recommendation 1 – Victim Issues in Call Grading Policies**

Chief Constables should ensure that police forces call grading and attendance policies explicitly identify victim vulnerability and risk as factors to be considered when determining the appropriate call grading and resultant police attendance.

#### **Recommendation 2 – Repeat Victimisation**

Chief Constables should ensure that police forces develop and implement repeat victimisation strategies that will provide a co-ordinated response to the needs of repeat victims of crimes.

#### **Recommendation 3 – Service Standards for Feedback to Victims of Crime**

Chief Constables should ensure that police forces set, publish and deliver clear service standards for proactively updating victims of crime.

#### **Recommendation 4 – ACPOS Integrated Information Management System**

Chief Constables, through ACPOS Business Change and working with the Scottish Police Services Authority, should ensure that the national crime recording application being developed as part of the ACPOS Information Management Project is designed and developed to include appropriate tools and applications to support services to victims including the management of updates.

#### **Recommendation 5 – Victim Marker on SPR**

Chief Constables, through the ACPOS Criminal Justice Business Area and COPFS should amend the format of the Standard Police Report to include a tag or marker that identifies a victim of crime in the report and differentiates them from other witnesses.

#### **Recommendation 6 – Victim Impact Information**

Chief Constables and COPFS should introduce procedures to ensure that victim impact information can be captured and provided for all cases.

#### **Recommendation 7 – COPFS Website – Consolidation of Available Information**

That COPFS consolidates the material available to victims on the COPFS website or removes older out-of-date material.

### **Recommendation 8 – Improving Countermand Letters**

That COPFS includes a sentence in countermand letters advising recipients that they either will not (eg accused has pled guilty), or may be required to attend on a future date.

### **Recommendation 9 – COPFS Information Provision to Victims of Crime**

COPFS should ensure that it proactively provides all victims with the information they need when they need it.

### **Recommendation 10 – Monitoring of Court Churn**

COPFS should improve their IT system to allow for analysis of victim/witness attendance at court.

### **Recommendation 11 – COPFS – Information to Victims on Outcome of Case**

COPFS should inform victims of crime of the outcome of their case at the conclusion of proceedings.

### **Recommendation 12 – Protocol for Release of Productions**

Chief Constables and COPFS should develop and implement a formal agreement that details clear procedures to ensure the efficient return of property to victims and owners after the conclusion of a case. This agreement should clearly define the respective roles and responsibilities of police forces and local Procurator Fiscal Offices.

## **SUGGESTIONS**

### **Suggestion 1 – Police Recording of Contact with Victims of Crime**

Chief Constables should introduce policies that will ensure that all contact between police forces and a victim of crime is recorded.

### **Suggestion 2 – Enquiry Point Telephone Number**

COPFS should add the phone numbers for Enquiry Point to the Being a Witness booklet.

### **Suggestion 3 – Monitoring of Referrals to VIA**

COPFS should consider enhancing its IT to enable accurate monitoring of referrals to VIA where a legal member of staff believes the victim would benefit from VIA involvement.

#### **Suggestion 4 – Victim Vulnerability Policies**

Chief Constables and COPFS should continue to promote policies aimed at supporting vulnerable victims of crime and should monitor their use and effectiveness.

## **INTRODUCTION**

1. This inspection report examines the provision of services by the Police and Crown Office Procurator Fiscal Service (COPFS) to victims of crimes at summary level, measured against the three principal objectives of The Scottish Strategy for Victims:
  - Information Provision
  - Practical and emotional support
  - Greater participation
2. The crimes selected in this report are those which were reported to the police and following subsequent investigation led to a person being reported to COPFS using the Standard Police Report (SPR). After due consideration of the circumstances of the case, COPFS determined that formal proceedings at summary level (before a Sheriff sitting alone or Justice of the Peace) should be commenced.
3. The cases considered involved a broad spectrum of outcomes including cases which led to full trial proceedings as well as those which were resolved before that stage eg by way of a plea at an earlier calling of the case in court.

### **Objective 1 – Information provision**

4. The Scottish Strategy for Victims (The Strategy) includes a commitment to offer victims information about both the criminal justice system generally and specifically the crime committed against them.
5. The first Victims of Crime Inspection Report by HMICS and IPS, published in October 2010, identified that both the police and COPFS needed to improve how they provided information to victims of crime. The report specifically identified a principle that victims should be informed each time a significant decision is made concerning their case by either the police or COPFS eg detection of crime, or decision to take proceedings.
6. The nature of the crimes selected for this report, where formal proceedings were raised at summary level, allows greater opportunity for communication between the police and COPFS than in those crimes selected for the Phase 1 report where no proceedings were raised.
7. This report builds on the findings of the Phase 1 report and explores in more detail the extent and quality of communication between the police, COPFS and victims of crime. The crimes examined in this report (Assault and Housebreaking/Theft of Property) may not be considered to be at the extreme end of criminal activity but the nature of the crimes can cause considerable anxiety and concern for the victims.
8. This report does not examine the provision of wider information about the criminal justice system as this was considered in the first report. Instead this report examines in some detail the standard and quality of information provided

to victims of crime by both the police and COPFS. Specifically the report examines:-

- The information provided to victims when a crime is initially reported to the police.
- The communication to victims by the police during the investigation phase of a crime including when a crime is detected and being reported to the COPFS.
- The communication by COPFS with the victim once the case has been received by COPFS and initial consideration given to commence proceedings.
- Communication with the victim by COPFS regarding their role as a witness in any court proceedings.
- The communication by COPFS concerning the final conclusion of the case.

## **Objective 2 – Practical and emotional support**

9. The second principal objective of the Strategy is a commitment to provide for the emotional and practical support needs of victims.
10. This recognises the unique and central role of the victim in the Criminal Justice system. It also recognises the need to provide practical and emotional support to assist the victim to recover and towards prevention of further crime or secondary victimisation.
11. This report reflects the findings of the Phase 1 report in relation to this objective and examines this specifically in relation to crimes at summary level. The report does not explore in detail the referral process to support agencies such as Victim Support as this was considered in the Phase 1 report. However it does explore some aspects unique to this phase. These include:-
  - The initial identification of vulnerability of victims of crime by the police.
  - Identification of repeat victimisation by the police as an indication of a victim's vulnerability when recording a crime.
  - The use of The Appropriate Adult Scheme by police for interviewing vulnerable victims of crime.
  - Action by COPFS in relation to the use of vulnerability information including the Victim Information and Advice service.

### **Objective 3 – Greater participation**

12. The final objective of the Strategy is to encourage greater participation by victims in the criminal justice system. This aims to improve participation by ensuring that victims have a voice and that the criminal justice system is responsive to their needs.
13. We have again built on the findings from the Phase 1 report and have sought to examine victim participation largely around their role in the criminal justice system and specifically as a witness in court proceedings. Victim participation has not been defined by the Strategy and we recognise that the issue of improving participation is wide ranging and includes aspects of the criminal justice system such as restorative justice. However the focus of this report is to ensure that the victim's voice is heard through existing processes and structures such as the police report to COPFS and how to improve the victim's role as a witness in subsequent court proceedings.
14. Chapters 1 to 5 of this report have been written in the structure of a timeline exploring the initial reporting of the crime to the police, the subsequent investigation and reporting process to COPFS followed by the initial action by COPFS on receipt of a report through to support at trial and thereafter the conclusion of a case.
15. Within this structure we explore all of the above issues but we also consider issues around the processes between police and COPFS in relation to the return of property to victims which has been seized by the police for court proceedings as well as exploring the issue of repeat citing and countermanding of witnesses in cases.

### **Acknowledgements**

16. We are grateful for the time and attention that staff across all agencies afforded this inspection.
17. We are particularly grateful to those victims who gave their time and shared their experiences of the criminal justice system. The information they provided gave us an invaluable insight into the victim experience and an integrity of evidence which would otherwise have been impossible.

## **BACKGROUND**

18. The Scottish Government strategy document “The Scottish Strategy for Victims”, hereinafter called The Strategy, was launched in 2001 in response to developments and research within Scotland, Europe and internationally. The Strategy, which has been the subject of review, remains the leading Scottish Government strategic statement on the treatment of victims and their place in the criminal justice system.
19. The focus of the strategy is the recognition that the needs of victims should be placed “*at the heart of our criminal justice system*”<sup>7</sup>. The Strategy was adopted by the Crown Office and the Procurator Fiscal Service (COPFS), police forces and other agencies within the criminal justice community. The Scottish Government (then known as The Scottish Executive) also published The National Standards for Victims of Crime in 2005, telling people what standards they should expect in their dealings with the criminal justice or children’s hearing systems.
20. The three main objectives of The Strategy are:-
  - To ensure information provision to victims (both in respect of the criminal justice system generally but also concerning the case in which they are involved);
  - To ensure provision of emotional and practical support to victims;
  - To achieve greater participation by victims in the criminal justice system.
21. Both the European and the Scottish strategic statements relating to victims are set to be reviewed in the near future. The European Justice Commissioner stated in March 2010 “As we work to ensure the rights of the suspected and the accused are fully enforced, we must equally look to the needs of those who fall victims of crime...***We must not forget that the right to a fair trial applies as much to the victim as to the defendant.....***”<sup>8</sup> European legislation on the ‘rights’ of victims in the criminal justice system is anticipated in 2011.

## **Aims**

22. This inspection has:
  - Considered the extent to which the police and COPFS have delivered the objectives of the “Scottish Strategy for Victims 2001” specifically as relates to victims for summary cases which result in court proceedings.
  - Carried out an assessment of current service provision set against victim needs from the initial reporting of a crime to the police, through investigation, reporting to COPFS and subsequent action by COPFS at summary level.

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<sup>7</sup> Jim Wallace, Deputy First Minister and Minister for Justice in foreword to Scottish Strategy for Victims 2001

<sup>8</sup> Viviane Reding, European Justice Minister March 2010

- Identified good practice within Scotland and beyond in providing a service to victims of crime for summary cases resulting in court proceedings.
- Examined the extent to which the processes of the police and COPFS could enhance victim participation in the criminal justice system.
- Made recommendations on how the provision of services to victims of crime could be improved by the Police and COPFS as relates to summary crimes resulting in court proceedings.

## **Methodology**

23. Our inspection methodology included the following elements carried out from November 2010 to May 2011:

24. Research

- We carried out desk research examining current and former policies of Scottish Government, ACPOS, police forces and COPFS relating to their treatment of victims as relates to summary cases.
- We examined current strategic statements issued by the Scottish Government, ACPOS, police forces and COPFS relating to their treatment of victim as relates to summary proceedings.
- We considered the result of published research including the 2009-2010 Scottish Crime and Justice Survey and Scottish Policing Performance Framework 2009-2010.
- We considered previous inspection reports including recommendations made by HMICS and IPS as far as these relate to the treatment of victims. In particular we considered this phase of the report against the findings of the Phase 1 report published in October 2010.

25. Consultation

- We made contact with a number of organisations and stakeholder groups intimating the nature of the inspection and invited comment.
- To supplement written submissions we organised a programme of interviews to allow us to examine the perspectives of key stakeholder groups further and in more detail.
- We had meetings with those involved in the criminal justice systems in England and Wales.
- We conducted a survey of the use of Appropriate Adults across Scotland for February and March, 2011 to assess the use of the scheme as relates to vulnerable victims of crime.

## 26. Fieldwork

- All police forces and COPFS were contacted and informed of the inspection process and given the opportunity to provide good practice.
- Three police forces and their corresponding COPFS areas were visited and interviews carried out with a range of staff. The areas examined were Dumfries and Galloway, Fife and Lothian and Borders (specifically Edinburgh City).
- We interviewed voluntary sector staff providing services to victims in the above force and COPFS areas.

## 27. Case audit and review

- Assisted by COPFS and police forces we identified 180 crimes with identifiable victims from the three police force areas to carry out a detailed case audit and review. The crimes were assaults and housebreaking/theft of property committed during 2008, 2009 and 2010 which were concluded following the raising of summary proceedings at court.
- We examined the recording of these 180 crimes by the three police forces measuring them against the commitments within the Scottish Strategy for Victims and individual force service standards.
- We examined the COPFS case papers for 163<sup>9</sup> of these 180 crimes measuring them against the commitments within the Scottish Strategy for Victims and the COPFS policies.

## 28. Contact with victims

- Following an assessment of each victim to minimise any risk of re-victimisation, 134 of these cases were identified as being suitable for more detailed consultation. Each victim was sent a letter and invited to participate in a consultation process. A total of 58 of the 134 contacted participated in the consultation via a telephone survey and postal questionnaire representing a response rate of 43%.
- The number of responses received from each force area, and percentage response rate of victims contacted was :-
  - Dumfries & Galloway – 22 (46%)
  - Fife – 18 (45%)
  - Lothian and Borders – 18 (38%)

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<sup>9</sup> Only 163 of the identified 180 case papers from COPFS were available for examination during the inspection

## Process

29. The report is presented as a timeline of the route a “typical” victim would take through the Criminal Justice system where the case is dealt with in the summary courts.
30. The stages of the process for both the police and COPFS are as follows:- Chapters 1, 2 and 3 deal with the role of the police, namely the initial reporting and recording of crime (Chapter 1), police enquiry and investigation (Chapter 2) and then reporting of a crime to COPFS (Chapter 3).
31. Chapters 4 and 5 deal with the functions of COPFS and include receipt of report, assessment and initial communication through to attending court, trial process and case closure.
32. The nature of the criminal justice process is of course complex and in each of the stages above there may be involvement of both the police and COPFS in each stage.

## Context

33. This phase of our inspections represents the majority of cases where court proceedings are raised by COPFS. The following statistics are taken from Scottish Government statistics and provide a context for the report.
34. **COPFS/Crime Statistics 2009/2010**

	No.
Crimes/Offences reported to police <sup>10</sup>	901,763
Criminal Reports received by COPFS <sup>11</sup>	275,503
Number of Trials at Summary Level <sup>12</sup>	5,572

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<sup>10</sup>Scottish Government: Recorded Crime in Scotland 2009-10. Available at [www.scotland.gov.uk/Publications/2010/09/07084606/0](http://www.scotland.gov.uk/Publications/2010/09/07084606/0)

<sup>11</sup> Whilst the majority of Criminal Reports to COPFS are submitted by the police it should be noted that a number of other agencies also provide reports to COPFS and will be included in this total.

<sup>12</sup>Crown Office Management Information

## **CHAPTER 1 – INITIAL REPORTING AND RECORDING OF CRIME**

### **Introduction**

35. This chapter will examine the service delivered by the police when a victim makes an initial report of a crime. A person can report a crime to the police in a number of ways. The majority are reported by telephone by calling either to a centralised contact centre or a local police station. People can also report crimes by attending at their local police office or by speaking to officers on patrol. More recent developments have seen crime reporting via a website or, for some categories of crime, through a third party agency to help improve the level of reporting to the police.
36. Whatever method is used to report the crime the purpose of this stage can be summarised as follows:-
- a) To record appropriate information to allow an assessment as to whether a crime has been committed and if so, to ensure an appropriate response is made by the police.
  - b) To formally record the crime in line with The Scottish Crime Recording Standard<sup>13</sup> and obtain necessary information to direct a subsequent investigation of that crime, with a view to detecting those responsible and reporting the circumstances to the local COPFS.
  - c) To provide additional support and reassurance to the victim of crime as is appropriate in compliance with Objective 1 of the Scottish Strategy for Victims.
37. This phase of the process involves two key stages :-
- a) The initial contact between the victim and the police to report that a crime has taken place.
  - b) The formal recording of a crime by the police.

### **Initial Police Contact**

38. The majority of people report a crime by telephone. Over the last ten years the move towards improved customer focus and cost efficiency has seen forces establish centralised contact centres to manage the majority of contact with the public. These centres provide trained and dedicated staff who are able to assess a caller's needs and then tailor a police response to meet the unique needs of each call and caller.

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<sup>13</sup> Scottish Crime Recording Standard was established by ACPOS to provide a single and consistent approach to the recording of crime across Scotland. Further information is available at <http://www.acpos.police.uk/Documents/Policies/CRIME%20-%20Scottish%20Crime%20Recording%20Standard%20Manual.pdf>

39. There is evidence that the public are generally satisfied with how the police deal with their initial contact. The table below shows user satisfaction levels over three years relating to initial contact with the police.

	Central	Dumfries & Galloway	Fife	Grampian	Lothian & Borders	Northern*	S/clyde	Tayside
2007-08	78%	86%	79%	93%	87%	-	63%	84%
2008-09	81%	88%	82%	91%	87%	-	77%	82%
2009-10	79%	92%	82%	93%	87%	-	93%	90%

\*Northern Constabulary are currently unable to report on this indicator.

40. This table, from the Scottish Policing Performance Framework Report 2009-10,<sup>14</sup> highlights a generally high level of satisfaction ranging from 79% to 93% in 2009-10 and is a good indication of how forces are dealing with initial contact, albeit these figures relate to all callers and not solely victims of crime.
41. Evidence of this level of satisfaction was also found in the telephone survey of victims of crime carried out as part of this inspection where the majority of respondents reported that they were either “very satisfied” or “satisfied” with the level of service provided by the police during the initial stages of the enquiry. Some of the comments received illustrate this:-

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*“Quick response. Very helpful”*

*“I was very satisfied with the quick response.”*

*“The police were quick to act. They arrived at my home within 10 mins of the crime being reported. They kept me informed at every step and were very informative about changes I may take to make my home safer.”*

*“Initial response from police was great and officer attending was polite and professional. Was told at time that I would be kept informed as case proceeded.”*

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42. However not all respondents were satisfied by the level of service received:-

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*“I felt more could have been done to arrest the man in question”*

*“4 hour delay in responding”*

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<sup>14</sup> The Scottish Policing Performance Framework Annual Report 2009/2010. Available at [www.scotland.gov.uk/Resource/Doc/328623/0106250.pdf](http://www.scotland.gov.uk/Resource/Doc/328623/0106250.pdf)

43. As part of the inspection we interviewed staff in the centralised contact centres in the three forces involved and reviewed each force’s policies on the service delivered to victims of crime.
44. All three forces have clear policies which define how a call is assessed to determine the subsequent police response. We did note that only one of those forces specifically included the needs of a victim as something to be considered when determining the call grading. The policy stated that the criteria for the second highest level of call response<sup>15</sup> included *“Incidents where the victim is considered vulnerable, in distress or concerned for safety”*.
45. The other forces stated that in practice victim issues would be taken into account by call handlers when defining the call grade although they do not specifically mention this in their policy. Whilst this may be the case it is our view that victims are such an important group of people who contact the police that call grading and attendance policies should specifically include a victim’s vulnerability and risk as a factor to be considered when determining the appropriate police response and call grade.

***Recommendation 1 – Victim Issues in Call Grading Policies***

*Chief Constables should ensure that police forces call grading and attendance policies explicitly identify victim vulnerability and risk as factors to be considered when determining the appropriate call grading and resultant police attendance.*

**Initial Assessment of Victims Needs**

46. During the inspection we examined the force processes that determine how call handlers assess a victim’s needs. Clearly all victims are not the same and some people require a more urgent and tailored response than others. Factors that may influence this include the victim’s vulnerability due to age, disability, race or other characteristic as well as whether they had previously been a victim of crime, commonly known as repeat victimisation. This information helps determine the level of the police response as well as aiding the officers who attend the call to determine the subsequent support needs of the victim.
47. All three forces stated that victim’s needs were determined by a combination of the information available via the technology used in the contact centres combined with the experience and skills of the call handlers. In all forces call handlers were able to access previous caller history via their respective command and control systems which helps them to determine the specific needs of a caller including the identification of repeat victimisation. The availability of this information ‘quick-time’ allows a call taker to assess the available information and reach an informed decision as to what level of support that victim requires based on previous caller information and other

<sup>15</sup> Police Forces have call grading policies that allow them to prioritise calls to ensure that available resources are directed to the most urgent calls

information elicited from the caller. We found good practice within Lothian and Borders Police where IT developments have helped to enhance the way in which information available on different IT databases is accessed to help deal with victims.

#### **Good Practice – Lothian and Borders – Integrated Command and Control**

Lothian and Borders Police Command and Control Centre in South Edinburgh have worked with the company which provides them with their Customer Relationship Management system (CRM) to access a number of separate police databases. Call handlers are able to simultaneously access information on a caller from a number of different police databases. They have also linked the CRM with the force's Command and Control system allowing the call taker to record the information obtained onto the command and control system and present this electronically to the staff who will send an officer to the call. This enhances the quality of information that can then be passed to the officers attending allowing them to be more aware of information that may be beneficial in dealing with the call.

48. As effective as IT systems are the capability of staff dealing with the phone call is key to the standard of service which the victim of crime will receive. During the inspection we examined the training given to staff within contact centres and how their performance was monitored.
49. In all three forces staff received training when they were newly recruited which, in addition to including training on IT systems and awareness of procedures, also includes training on customer care. The training also includes advice on dealing with people who are upset or emotional. We did however note that the training did not specifically deal with victims of crime.
50. All three forces have also developed performance regimes that measure the quality of service delivered to the public. This included dip sampling of calls measured against specific criteria. We were pleased to note that throughout, the emphasis was not on the quantity of calls handled, as often found in commercial call centres, but on the quality of how the call was handled.
51. Overall we were impressed by the standard of service delivered by all three forces in dealing with the initial phone calls from victims with a clear quality of service ethos. This is evidenced by the good levels of user satisfaction for initial contact with the police.

#### **Police Officer Attendance and Support to Victim**

52. Whilst police forces have begun recording minor crimes by telephone the majority of crime reports are still dealt with by the attendance of a police officer. This was particularly true of the crime audited in this inspection where an assault was committed or a house broken into.

53. A review of The Scottish Policing Performance Framework shows that satisfaction with the treatment by officers who attended a call varies across Scotland ranging from 57% to 92%. This is shown in the following table:-

	Central	Dumfries & Galloway	Fife	Grampian	Lothian & Borders	Northern*	S/clyde	Tayside
2008-09		93%	59%	92%	87%	-	68%	
2009-10	57%	92%	62%	92%	89%	-	60%	61%

\*Northern Constabulary are currently unable to report on this indicator.

54. The Scottish Crime and Justice Survey 2009/10<sup>16</sup> found that 57% of the people surveyed who had reported a crime to the police were satisfied by the level of service provided. Reasons for dissatisfaction with the service included the police being unhelpful (30%), took too long to respond or incompetent or inefficient (20%).
55. The telephone survey of victims of crime found that in general victims were satisfied with the officers who attended initially to deal with their call and record the crime with 40 out of 47 respondents being either “very satisfied” or “satisfied”. Comments made included:-

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*“I did not think the police could have done anything to improve their service. They were very good and understanding. I was treated with kindness and understanding.”*

*“Initial response from police was great and officer attending was polite and professional. Was told at time that I would be kept informed as case proceeded.”*

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56. These views contrasted with the experience of some other victims:-

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*“They were helpful when they came, but after the night I heard nothing.”*

*“Never kept up to date after first visit from Police.”*

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57. It is easy to presume that all victims need support and assistance but in reality the majority of people are able to manage without any support or assistance. Indeed The Scottish Crime and Justice Survey 2009-2010 found that 90% of victims of crime said they or another household member did not need or want support or advice. This would tend to indicate that the requirement is not for a

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<sup>16</sup> The Scottish Crime and Justice Survey 2010 can be viewed at [www.scotland.gov.uk/Publications/2010/11/01090437/0](http://www.scotland.gov.uk/Publications/2010/11/01090437/0)

uniform service for all victims but instead a need to identify those victims that require or request additional support and assistance.

58. The audit we carried out of the crime recording systems found only a minority of cases where the reporting officer recorded specific information about any additional support offered to the victim of crime, beyond referral to victim support<sup>17</sup>. Where these were recorded they tended to be about providing security advice to victims following a housebreaking or giving assistance to cancel stolen credit cards. We were informed by forces that additional support may also be given to victims through local community policing teams but not recorded on the crime recording system.
59. We spoke to operational officers within the three forces and asked them what they viewed as their responsibility when dealing with a victim of crime. They saw their role as providing support and assistance to the victim and cited a number of ways in which this was done from referring the victim to support agencies such as Victim Support Scotland, providing security assistance where a crime had occurred or referring them to specialist departments within the force.
60. Officers stated that the Community or Neighbourhood Policing Teams in their forces were another means available to them and that they had regularly spoken with their colleagues in these teams who were able to provide a more supportive role to specific victims of crime.

### **Repeat Victimisation**

61. Whether a person has previously been a victim of a crime can be a key factor in determining their vulnerability and the level of support needed. Repeat victimisation is an issue which has been widely recognised in policing and criminological circles for many years. The basis of this is the reality that crime is not equally shared across society and that many people suffer more than their “proportion” of crime.
62. The Scottish Crime and Justice Survey 2009/2010 estimated that 34% of victims of both violent and property crime were repeat victims ie they suffered the same crime at least once more in the previous 12 months. This level of repeat victimisation is significant.
63. The principle benefits of tackling repeat victimisation from a police perspective are that identifying the repeat victim at the earliest stage provides opportunities to support the victim, take steps to prevent further crime from occurring and increases the opportunity of tracing the offender.
64. Repeat victimisation has a significant impact on the victims themselves. Research has shown that the impact of repeat victimisation is distinctive from suffering a single crime and that repeat victims never get used to being victims

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<sup>17</sup> All Police Forces have an agreement with Victim Support Scotland that ensures that victims of crime can be referred to Victim Support Scotland for support whilst complying with Data Protection legislation

of crime. In extreme cases there is evidence that it can lead to social exclusion as the victim can become withdrawn and isolated from support services.<sup>18</sup>

65. Tackling repeat victimisation should thus be seen as a fundamental part of any victim-centred response.
66. During the inspection it was apparent from our interviews and focus groups that officers at all levels are aware of repeat victimisation and that there are measures in place in all forces that individually seek to tackle repeat victimisation. There was evidence in all forces of processes being carried out on a daily basis to identify repeat or vulnerable victims and of Community Policing Teams developing problem solving solutions that tackle repeat victimisation.
67. Whilst all three forces interviewed stated that they had a commitment to repeat victimisation, at the time of the inspection we noted that only one force, Fife Constabulary, had a published policy on repeat victimisation. This is contained within their Standard Operating Procedure on Support for Victims and Witnesses, published in November 2010. The policy defines repeat victimisation and outlines a procedure to address repeat victimisation including a requirement on officers attending a crime report to ask the victim if they have previously been a victim of crime. The policy details the force's response once repeat victimisation has been identified including recording on the force's crime recording system and a process for directing an appropriate response with oversight by Area Chief Inspectors.
68. Whilst the strategy has only recently been introduced and is still being implemented, the measures taken by Fife Constabulary and a number of other Scottish forces to develop specific repeat victimisation strategies is encouraging. We are aware that work is currently ongoing within ACPOS Criminal Justice Business Area to explore the development of a consistent approach to repeat victimisation across Scotland.
69. Considerable work in this area has recently been undertaken by forces in England and Wales, specifically relating to repeat acts of anti-social behaviour. This followed a number of high profile cases where victimisation at a low level was not adequately identified or addressed with resultant tragic consequences for the victims. The issue was the cumulative impact of these incidents and a failure to identify the individual needs of the victim. The lessons from this are also applicable to formally recorded crimes.
70. We found an example of this work in one force in England, Lancashire Constabulary<sup>19</sup>. The force implemented a new repeat victimisation strategy by publishing minimum standards which explain the role of staff at different stages of the process including call handlers and community policing teams. The process includes instructions to call handlers to aid the identification of

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<sup>18</sup> Scottish Executive Central Research Unit: Research on Repeat Victimisation in Scotland. Haw & Pease, University of Huddersfield. Available at [www.scotland.gov.uk/Resource/Doc/156660/0042096.pdf](http://www.scotland.gov.uk/Resource/Doc/156660/0042096.pdf)

<sup>19</sup> Further information on the work being undertaken by Lancashire Constabulary and partners is available on [www.lancashire.police.uk/need-to-know/antisocial-behaviour](http://www.lancashire.police.uk/need-to-know/antisocial-behaviour)

vulnerable victims and a structured response including multi-agency problem solving. Staff also received briefings to promote the importance of the policy. The strategy is also supported by a performance management process at force and divisional level.

***Recommendation 2 – Repeat Victimisation***

*Chief Constables should ensure that police forces develop and implement repeat victimisation strategies that will provide a co-ordinated response to the needs of repeat victims of crimes.*

**Use of Appropriate Adults Schemes**

71. Another area we explored was the use of appropriate adults by police for interviews of victims of crime. Appropriate Adults schemes exist throughout Scotland and are operated against a set of common standards. The schemes are a collaborative approach which includes the police, social work, Scottish Government and the voluntary sector.
72. The role of the appropriate adult is to facilitate communication between the police and a person suffering from mental disorder and, as far as is possible, ensure understanding by both parties.
73. Appropriate adults are selected for their experience in the field of mental health, learning disabilities, dementia and/or acquired brain injuries. It is their role to pick up on 'clues' and indicators that a person has not fully understood what they are being told or what they are being asked. Their use is extended to all categories of interviews including witnesses, victims, suspects and accused.
74. All three forces have in place clear policies which promote the use of Appropriate Adults and emphasise the importance of their use. During Focus Groups with operational officers we were satisfied that there was a good awareness of the Appropriate Adult Scheme although there was an acceptance that their use would often be used for more serious crime than simply recording routine crime reports from victims.
75. In collaboration with staff from Appropriate Adult Schemes throughout Scotland we carried out an audit of the police use of the schemes over a two month period of February and March 2011.
76. Whilst not all areas of Scotland provided responses there was a total of 260 call outs recorded during this period. Of those 70 related to interviews with victims with the majority (156) for interviews of suspects or persons accused of a crime. The reasons for using the Appropriate Adults included Learning Difficulties (136), Mental Health (80) as well as a range of other reasons (34).
77. From the audit it was not possible to ascertain whether the crime involving the victims being interviewed was likely to be dealt with under summary proceedings. However overall we were content that officers are aware of the

availability of Appropriate Adults and forces should continue to promote their use as a means of supporting vulnerable victims of crime.

## **CHAPTER 2 – POLICE ENQUIRY AND INVESTIGATION**

### **Introduction**

78. This chapter of the report explores the stage when a crime is being investigated by the police leading up to detection and subsequent reporting of the circumstances to the Procurator Fiscal. In particular we examine the effectiveness of communication between the police and the victim of crime. This includes the extent to which the victim is informed by the police when someone has been traced and charged with their crime.

### **Communicating with Victims**

79. In 2008 a Thematic Inspection by HMICS on Quality of Service and Feedback to Users of the police service<sup>20</sup> examined the way police forces in Scotland engaged with, and provided feedback to, members of the public. The report identified that the delivery of policing needed to become more customer focussed than in the past in order to deliver a better quality of service to the public. At the heart of this police-public contact was the reporting of crime.
80. This customer focus has been further enhanced by developments from the Scottish Government which has seen a drive towards the delivery of public services which reflect the needs of users with clear service standards that defines what a person should come to expect when engaging with their local services such as the police.
81. The 2008 Thematic Inspection by HMICS identified that the area where police forces were poorest in terms of service delivery correlated with victims being updated on the progress of any investigation.
82. Whilst the intervening years have seen some progress in terms of the introduction of service standards by some forces, there is little evidence of marked improvement. This was recently reinforced in the 2009-2010 Crime and Justice Survey which found that only 26% of those surveyed who had reported a crime to police stated they had received an update from police.
83. The Scottish Policing Performance Framework now includes an indicator that measures whether service users were kept adequately informed about the progress made regarding the enquiry. An analysis of the performance of forces across Scotland since 2008 is as follows:-

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<sup>20</sup> Joint Thematic Inspection Report by Inspectorate of Prosecution in Scotland and Her Majesty's Inspectorate of Constabulary for Scotland – Victims of Crime in the Criminal Justice System – October 2010. Available at [www.scotland.gov.uk/Resource/Doc/327055/0105496.pdf](http://www.scotland.gov.uk/Resource/Doc/327055/0105496.pdf)

	Central	Dumfries & Galloway	Fife	Grampian	Lothian & Borders	Northern*	S/clyde	Tayside
2007-08	43%	59%	42%	62%	50%	-	48%	43%
2008-09	49%	58%	48%	62%	53%	-	57%	48%
2009-10	37%	73%	50%	61%	57%	-	61%	52%

\*Northern Constabulary are currently unable to report on this indicator.

84. The above clearly illustrates that when compared to initial contact with a victim of crime, there is generally a significant drop in the levels of satisfaction from service users.
85. Our telephone survey of victims of crime underlined this. It was apparent that respondents to our survey were increasingly dissatisfied as the investigation progressed from an initial high of 98% being “very satisfied” or “satisfied” with the initial contact, reducing to 85% during the investigation and reducing further to only 76% of respondents being informed that the person responsible had been traced.
86. Amongst the comments made about the police were:-

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*“Never kept up to date after first visit from Police.”*

*“It would have been good to have been informed the thief had been found.”*

*“Were not kept up to date with any information from the police and when they said they would come back out to see us they never.”*

*“I still do not know what happened.”*

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87. However the results from our telephone survey were more positive than the results from both The Scottish Crime Survey 2009-10 and the Scottish Police Performance Framework and this was reflected in some of the comments made by victims:-

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*“I was very well informed throughout the investigation.”*

*“Communication very good.”*

*“Kept up to speed with progress of the case.”*

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88. During the inspection we noted that all three forces inspected adopted distinctly different approaches to setting standards around communication to victims of crime. No force has a definitive Victims of Crime policy instead seeking to fulfil the requirements of the Scottish Strategy for Victims. This objective is supported by a range of different policies and procedures that include feedback to victims, and referral processes to Victim Support.
89. The approaches adopted in each of the three forces examined are summarised as follows:-

<b>Dumfries and Galloway Constabulary</b>
<p>Dumfries and Galloway Constabulary introduced its Standard Operating Procedure instruction to staff titled “Improvement Strategy for Public Reassurance and Feedback” in late 2009. The policy introduced the practice where officers dealing with a victim of crime issues them with a “Reporting a Crime or Incident – Information and Advice” leaflet which includes advice on victim support. It states <i>“The enquiry officer usually has three weeks to complete an investigation, about which time you will be contacted and advised of the result”</i>.</p> <p>Internally the force introduced a requirement on officers to update victims of crime at least 12 days and 28 days after the crime is reported. The force’s crime recording system was adapted to include a system to remind officers and supervisors when an update is due. The process is backed by a performance management process which involves Divisional Commanders and others being able to monitor compliance with the policy.</p>
<b>Fife Constabulary</b>
<p>In Fife Constabulary a new Standard Operating Procedure instruction to staff “Support for Victims and Witnesses” was introduced in November 2010. Officers do not directly inform the victim about Victim Support referral. Instead the force sends all victims a letter that includes information on referral to Victim Support and provides an opportunity not to be referred. The letter indicates that an update will be provided but provides no timescale for the update. The new policy does define the period between updates stating that <i>“contact episodes should be no longer than 14 days apart”</i>. Officers are also required to agree a Contact Plan with the victim determining what the victim’s preferred time, date and method of contact is. This information is recorded on the crime recording system.</p>
<b>Lothian and Borders Police</b>
<p>In Lothian and Borders there is no specific policy that deals with victim contact. Officers dealing with victims issue an Incident Information Form (IIF) and seek confirmation from the victim at the time whether they wish to be referred to Victim Support. The IIF card does not give any timescale for an update. The officer indicates on the crime recording system whether the victim wishes to be referred to Victim Support.</p>

As part of its existing Citizen Focus and Reassurance Strategy, the force introduced a Policing Charter. This states that “*Where appropriate an officer will make enquiries, keep you updated with any significant information and update you of the final outcome*” although it does not provide a specific timescale for updates. Internally no specific policy states the timescale by which officers should update victims of crime although it has become common practice for this to be done at around 21 days from when the crime was reported. This is due to a function within the crime recording system that requires an officer and their supervisor to review the status of the crime report at that time.

90. The above highlights the variations existing across only three forces in Scotland in relation to their practice of updating victims of crime. On one hand Dumfries and Galloway Constabulary have publicly stated their timescales for updating anyone reporting a crime or incident with a progress report after 12 days and a final update after 28 days. Fife Constabulary do not publicise a target date for updates but have adopted an internal target of 14 days, whilst Lothian and Borders have not adopted a timescale for updates either publicly or through policies, but have an internal target of 21 days that has developed through practice.
91. The case for a defined and published timescale for feedback to victims is closely aligned to the desire for clearer service standards promoted by The Scottish Government in recent years. Recent research in England and Wales<sup>21</sup>, emerging from discussion groups of local residents, which examined confidence in the police and councils to tackle anti-social behaviour, found that providing prompt feedback on the outcomes of cases was an important means of reassuring communities that action has been taken.
92. The research also examined service standards and respondents identified three themes that were important to them when local agreements on service standards with the police are set. These were:-
- **Credibility** – the public must perceive the agreement to be firm, realistic and achievable.
  - **Accountability** – the public must know how to use the agreement to hold their local police to account when service standards are not met.
  - **Clarity** – the agreement must be clear and succinct to make it accessible to all members of the local community.
93. Evidence of how a publicly defined timescale for updating victims, backed by a robust policy, can deliver improvement in user satisfaction can be found in the

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<sup>21</sup> Home Office Research Paper 50 – Exploring public confidence in the police and local councils in tackling crime and anti-social behaviour. Available at [www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/police-research/horr50/horr50-summary?view=Binary](http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/police-research/horr50/horr50-summary?view=Binary)

case of Dumfries and Galloway Constabulary. In 2009, in response to poor levels of user satisfaction from service users on updating from officers, the force introduced a new strategy to update service users and victims. The strategy had many elements but included a publicly stated timescale for officers to update victims, and a robust performance monitoring process to ensure compliance. Importantly the Chief Constable championed this new policy and monitored compliance closely helping to ensure that the commitment became embedded into the day to day work of the force.

94. The result has seen improvement in performance with satisfaction from service users with feedback from officers rising from 58% in 2008-2009 to 73% in 2009-2010. Figures recently published by ACPOS<sup>22</sup> for 2010-11 show a continued increase in satisfaction levels for feedback rising to 82.6%. The new policy has also provided other organisational benefits including reduced demand. The Force Control Centre have reported a 6% reduction in the number of telephone calls received and anecdotally staff are of the view that a reason for this reduction is that they are dealing with less enquiries from victims seeking crime updates from officers than in the past.
95. The figures from Scottish Policing Performance Framework, 2009/2010 showed that Dumfries and Galloway Constabulary has the highest level of satisfaction in user feedback with 73%, significantly better than other forces. Responses from victims to our telephone survey from Dumfries and Galloway Constabulary were positive about the service from the force and being kept informed although similarly positive results were also received from the other two forces.
96. We also tested the extent to which the force's approach has become accepted practice in the force by speaking to officers across all ranks through Focus Groups and meetings. It was apparent from the responses that the process has become embedded into the day to day work of the force with the robust performance management process introduced as part of the policy ensuring that it remains a priority across the force.

#### **Case Study – Dumfries and Galloway Constabulary Feedback to Service Users**

In 2009 in response to poor user satisfaction levels Dumfries and Galloway Constabulary developed an Improvement Strategy for Public Reassurance and Feedback. The policy was developed by a Working Group that included operational police officers. The key elements of the policy were:-

- Visible leadership of the issue at Executive level including monitoring of performance and compliance through Senior Management Performance meetings and proactive communication to staff by senior officers.
- A publicly stated target for a victim to be updated from an officer on the progress of the investigation with defined 12 day (progress

<sup>22</sup> ACPOS: The Police Service in Scotland Performance Report 2010/2011. Available at [www.acpos.police.uk/Documents/Policies/PM\\_ACPOS\\_PSS\\_Performance%20Report%20\\_Q4\\_Apr10-March11%20v1.0.pdf](http://www.acpos.police.uk/Documents/Policies/PM_ACPOS_PSS_Performance%20Report%20_Q4_Apr10-March11%20v1.0.pdf)

update) and 28 day (final outcome) timescales.

- Amendment of the force's crime recording system to include an automatic reminder to the reporting officer and supervisor of the target date for updates.
- The use of "champions" to promote the new policy internally, backed up by a marketing campaign throughout the force.
- A robust performance management process involving User Survey results broken down to local policing areas as well as regular review of cases where contact with victims is overdue.

Over the past two years Dumfries and Galloway Constabulary has seen its satisfaction levels in relation to feedback from the police rise from 58% to 73%.

97. Our first joint inspection on service to victims, published in October 2010, stated that there was a need for some consistency across Scotland on updating victims of crime and supported the view that victims have a right to be informed each time a significant decision about their case is made.
98. The argument that is often presented against defining a timescale for updating victims is that the response to victims should be based on the needs of the individual victim and the circumstances of the crime rather than based on a defined timetable. Indeed the Scottish Crime and Justice Survey 2009-2010 found that 20% of people who were not contacted by the police with an update actually did not wish to be kept informed.
99. The experience in Dumfries and Galloway Constabulary, supported by evidence on the effectiveness of service standards, suggests that setting a maximum period by which a victim can expect to be informed of the progress of an investigation would provide clarity for the victim and the officer dealing but would also provide the flexibility for contact to be made before that time should this be necessary due to the nature of the crime or the impact on the victim.
100. Based on the evidence from Dumfries and Galloway Constabulary we would anticipate that by setting, publishing and delivering clear service standards for the proactive updating of victims of crime on the progress of an investigation, forces would improve victim satisfaction with the service provided.

### ***Recommendation 3 – Service Standards for Feedback to Victims***

*Chief Constables should ensure that police forces set, publish and deliver clear service standards for proactively updating victims of crime.*

## **Methods of Communicating with Victims**

101. During the inspection we explored the methods which forces use to communicate with victims of crime to identify whether forces adopted a flexible response to communication.

102. We commend an approach where the method of communication is based on the needs of the victim and noted a new approach by Fife Constabulary who have introduced a Contact Plan which is agreed with the victim. Whilst the policy is still in its early stages and evidence from officers in focus groups is that it is not yet embedded in practice, we nevertheless welcome this development.

**Good Practice – Fife Constabulary Contact Plan**

In November 2010 Fife Constabulary launched its “Support for Victims and Witnesses” Standard Operating Procedure. This directs officers to agree a “Contact Plan” with each victim of crime. This should agree a time, date and method for communicating with the victim of crime, whilst retaining the commitment to making contact “no longer than 14 days apart”. Suggested methods include personal visit, telephone call or email.

The officers are instructed to include the Contact Plan in a section of the Crime Recording system so that it is available for other staff.

103. Officers identified to the Inspection Team that one of the biggest barriers to communicating with victims was the shift patterns that they worked. The combination of days off followed by nightshift working meant that it was often difficult for staff to call and update the victim within a reasonable timescale.
104. We noted that as part of Dumfries and Galloway Constabulary’s approach the force set an initial update timescale with victims of crime of 12 days. This timescale was based around the force’s shift pattern and was calculated to be the optimum time that would allow an officer working on the force’s normal shift pattern to be able to update a victim. The audit of crime reports and the telephone survey appear to support the success of this approach by identifying that, post implementation of the new policy, almost all victims had been regularly updated and satisfaction rates for victims was good.
105. Whilst it must ultimately rest with police officers and staff to update victims, Information Technology has a part to play in managing the response to victims. We noted that Dumfries and Galloway Constabulary engaged The Scottish Police Services Authority<sup>23</sup> (SPSA) to amend their crime recording system to include an electronic reminder tool for officers. This counts the days since the crime was reported and prompts both them and their supervisor when the 12 day and 28 day period have been reached. The tool is also capable of producing a report allowing managers to monitor compliance.
106. The other crime recording systems we viewed during this inspection did not have the same applications and did not appear to be designed and built to cater

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<sup>23</sup> The Scottish Police Services Authority is a government body which is responsible for the delivery of core police services across Scotland. This includes the delivery of police training via The Scottish Police College, national police IT systems, forensic services and the Scottish Crime and Drugs Enforcement Agency (SCDEA).

for current policing commitments to victims of crime. These systems rely on the officer recording information about a victim in a text field in the crime recording system and on the officer remembering to update the victim. They also do not include built in performance monitoring tools.

107. As part of its Business Change<sup>24</sup> agenda, ACPOS is committed to developing an improved Information Management system that will deliver better information technology for policing across Scotland. The proposals include a single crime recording system for use across Scotland. Clearly this work represents an opportunity to design and build a crime recording system that considers the needs of victims of crime and will facilitate and assist officers to better meet the needs of victims including the management of feedback.

***Recommendation 4 – ACPOS Information Management Project***

*Chief Constables, through ACPOS Business Change and working with the Scottish Police Services Authority, should ensure that the national crime recording application being developed as part of the ACPOS Information Management Project is designed and developed to include appropriate tools and applications to support services to victims including the management of updates.*

108. Currently there are many different methods available for communication. Whilst the requirement for confidentiality makes some social media methods inappropriate for updating victims of crime there are nevertheless opportunities including increased use of email and SMS text messaging.
109. Lothian and Borders Police have reported that they intend to explore the option of updating victims by text messaging via their Contact Centre and are currently developing this capability. We welcome this move towards expanding the scope of methods of communicating with victims which can only enhance the quality of contact, reduce the burden on officers and tailor a response that meets the needs of the victim.
110. As well as officers updating victims, victims themselves will often proactively seek information from the police about the progress of their case. This enquiry is invariably dealt with by the Force Contact Centres. We noted that practice varies from force to force with some forces indicating that staff can check information from the crime recording system and provide an update where this is appropriate.
111. We did note that often where contact has been made with a victim by the Force Contact Centre there is no consistency in the recording of that information. Clearly where communication has been made with the victim that information should be recorded, ideally within the crime recording system, so that a consistent record of contact with the victim is maintained. Such information

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<sup>24</sup>The ACPOS Business Change Agenda aims to deliver a programme of common, integrated ICT systems which will support an agreed national business model of policing in Scotland

would assist the investigating officer when dealing with the victim including determining what additional support the victim may need.

***Suggestion 1 – Police Recording of Contact with Victims***

*Chief Constables should introduce policies that will ensure that all contact between police forces and a victim of crime is recorded.*

## **CHAPTER 3 – REPORTING OF ACCUSED TO COPFS**

### **Introduction**

112. This chapter examines the period once the police have traced the person responsible and a report of the circumstances and evidence is sent to the local Procurator Fiscal's Office using the Standard Police Report (SPR). The chapter explores the current policy, practice and use of the SPR in relation to victim issues. Another area we explore is the extent to which the police reflect the impact which a crime has had on the victim of a crime and how this approach could be seen as increasing the victim's participation in the criminal justice process.

### **Policies and Procedures**

113. The Standard Police Report is a nationally agreed format for the submission of reports from the police to COPFS. The SPR is delivered using different IT platforms and whilst there may be some variations to reflect local agreements between the police and local Procurators Fiscal, in the main the report format follows the same standard.
114. In 2008 a new and updated format for the Standard Police Report was introduced commonly known as SPR2. The changes introduced reflected obligations in relation to disclosure and also introduced the ability to identify witnesses and accused in relation to their vulnerability. It also included a Victim Impact section for specific categories of crimes.
115. The timescale when a report is sent to the Procurator Fiscal is obviously determined by the length of time of any investigation that leads to the crime being detected. During this inspection we observed a wide variation in this time frame. In a significant majority of the assault cases the period from crime to detection was very short as the accused was often traced at the time by police meaning that the summary of evidence to the Procurator Fiscal was very succinct. In some of the housebreaking crimes there was a significant amount and varied type of investigations carried out and the detection of the accused often took place many months after the crime. Clearly the level of information in these cases is likely to be more detailed.
116. During this inspection we examined the guidance on the completion of the SPR issued to officers by the three inspected forces. The document is based on a standard national policy with amendments to reflect the local IT platform and any local arrangements.
117. We noted that there is very little reference to or consideration specifically of victims in the SPR format with the report very much offender focussed. It does include the facility to electronically mark a witness or accused as being vulnerable. Similarly a section on the impact of crime, comprising of a series of questions, has been introduced in the current version of SPR but this is for the use of only specific categories of crime such as hate crime meaning that for the great majority of crimes covered by this report this facility is not used.

118. In our previous report it was noted that, over the past few years, the victims' agenda had been subsumed by the wider witnesses' agenda. The report re-emphasised the need for victims to be considered as victims first, irrespective of whether they ultimately would be used as a witness in the criminal justice process. The report stated "the focus on the victim, simply like any other witness, may at times fail to recognise the particular damage and consequence to them as the victim of the crime and their legitimate needs relating to information provision and support".
119. Building on this, we explored whether victims should be specifically identified as such in the Standard Police Report by way of a tag or electronic marker. It is recognised practice for the complainer or victim to be the first named person in the list of witnesses within the report but in cases where there are multiple victims the issue can become complicated.
120. We discussed this issue with representatives from COPFS and ACPOS. There was support for such a move as it was felt that such a marker could help COPFS to quickly differentiate between victims and witnesses. This would be useful when reviewing evidence in a case and also help when communicating with the victim. This type of marker would also be useful through the subsequent process including the Victim Information and Advice service (VIA).
121. As well as the practical benefits of this, such an approach also re-affirms the important status of the victim of a crime and the unique role which a victim has in and outside the criminal justice system, reinforcing commitments detailed in the Scottish Strategy for Victims and the subsequent National Standards for Victims of Crime.

***Recommendation 5 – Victim Marker on SPR***

*Chief Constables, through the ACPOS Criminal Justice Business Area and COPFS should amend the format of the Standard Police Report to include a tag or marker that identifies a victim of crime in the report and differentiates them from other witnesses.*

**Impact of Crime on Victim**

122. The third objective of The Scottish Strategy for Victims is to increase victim participation in the criminal justice system. This issue has caused considerable discussion and debate over many years with a wide range of views on the extent to which victims should be able to actually participate in the criminal justice process.
123. This has in part been due to the fact that the strategy itself does not define participation.

124. We examined this issue in relation to existing processes that are in place rather than any future developments that would require additional legislation or significant resources to implement. The two areas we explored were:-

- The extent to which the police reflect the impact a crime has had on a victim in order that this can be considered and used by COPFS to reflect the opinions of the victims at key stages of the criminal justice process.
- The extent to which the victim's role in the criminal justice process as a witness in court is facilitated. This point is covered in Chapter 5 of this report dealing with victim participation in the trial process.

Our Telephone Survey of victims explored whether they felt that the impact of the crime on them had been sufficiently considered during the criminal justice process. Of those who responded to this question just over 1 in 5 felt the court was sufficiently made aware of the impact with some victims stating that they were not asked questions relating to their financial loss.

125. Some of the comments received from victims included:-

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*“The PFS did not bother to find out what impact the crime had on myself – although I did not suffer any physical injury I did suffer mental health problems for quite some time after the crime.”*

*“The financial loss to myself was not asked.”*

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126. In addition during our consultation with support agencies Victim Support Scotland stated that they were strongly supportive of victim impact information being provided by the police and used in courts stating *“the more information provided the better.”*

127. It is recognised good practice for police officers to provide additional supporting information that may assist the Procurator Fiscal to make decisions on a specific case. The normal process is for this information to be included in the Remarks Section of the SPR and the information may relate to the accused, the victim or any other background information on the crime.

128. As part of the inspection we examined the SPRs submitted for the cases included in the case audit. Whilst there is a specific section available in the SPR for recording victim impact this is only used for specific crimes such as hate crimes and therefore this would not be used for those crimes included in this inspection. Consequently our inspection was limited to any information provided by the reporting officer within the main report and/or within the Remarks Section of the SPR. We found that only a small number of the cases reviewed included additional information from the reporting officer to the Procurator Fiscal and most of these related to the accused rather than the

victim. The audit of COPFS case papers also identified that fewer than half of the theft cases audited contained information on financial loss with case papers showing little evidence of the court being informed of the financial loss.

129. Staff responsible for Case Management within police forces stated that the decision to include impact of crime information lay with the reporting officer and it was their perception that often only experienced officers would provide this type of information. There was also a tendency for additional information to be provided in some specific types of crimes such as domestic abuse or more serious crimes but were less common for the types of crime covered in this report.
130. We reviewed the policies of COPFS on the impact of the crime and found that they had more specific policies in place in relation to presenting the impact of crime on a victim at court. Commitment 8 of the COPFS “Our Commitments to Victims and Witnesses” (OCVW)<sup>25</sup> is to “*Give the judge information about the effect of the crime on you*”. Additional guidance is also included in the supporting OCVW booklet including a commitment to allow the victim to describe the impact of the crime when giving evidence at a trial and informing the judge at sentencing what is known about the impact of the crime on the victim.
131. In addition, COPFS also have specific guidance for staff included in the Summary Proceedings Guidelines on information to be presented to court which states:-  
  
*“Procurators Fiscal must consider whether it is necessary to obtain accurate, updated information about the financial, physical or emotional effects of the crime to provide to the court at the time of sentencing and a requirement that when the plea is tendered, all available information about the impact of the crime must be narrated.”*
132. This is also supplemented by the COPFS Book of Regulations which states *“Where possible, prosecutors should be proactive in obtaining relevant information on the impact of the offence on the victim.”*
133. The existence of these policies shows a commitment from COPFS to present the impact of crime on victims in court. However the evidence from our inspection is that such information is not being routinely sought by Procurators Fiscal. This would appear to be due to the absence of a process between COPFS and the police to obtain and report victim impact information for summary cases via the SPR. The exceptions to this are the provision of medical evidence, which is included in a section within the SPR, and information on financial loss, particularly for theft. The absence of such arrangements undermines the effectiveness of the commitment made by COPFS.

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<sup>25</sup> Further information on the COPFS “Our Commitments to Victims and Witnesses” is available at [www.copfs.gov.uk/Publications/2010/11/Our-Commitments-Victims-and-Prosecution-Witnesses-Information-Leaflet](http://www.copfs.gov.uk/Publications/2010/11/Our-Commitments-Victims-and-Prosecution-Witnesses-Information-Leaflet)

134. During the inspection we discussed this issue with police officers through Focus Groups and with staff from COPFS. The police officers stated that they were fully aware that they could provide additional information to the Procurator Fiscal but they often felt that this was only appropriate for specific types of crimes. Some officers were of the view that some Procurator Fiscals welcomed the inclusion of additional remarks whilst their perception was that others did not and because of this they were often unsure whether or not to include additional information.
135. We discussed with representatives from COPFS the extent to which information on impact could be used if this was provided by the police. They stated that additional information is often of value when it is provided but it was not always provided sufficiently including information on financial loss. They stated that when additional information such as impact of a crime on a victim is provided it can be used at different stages as the case progresses and not just at trial. Some reported that when they had used this information in court it had been well received by some presiding Sheriffs and stated that they would welcome the inclusion of a specific section in the SPR dealing with the impact on a victim.
136. In recognition of the critical role of Sheriffs in this regard we spoke to nine Sheriffs from all over Scotland on the issue of impact of crime. They were aware that Procurator Fiscal Deputes were asking questions on impact of crime from victims during trial and they welcomed this and found the information to be of use. However they reported that there were occasions where information on the impact of a crime was not available, particularly during sentencing. They confirmed that they were keen to have this information and that when they did it was of benefit to them.
137. We are aware that in Scotland there have been developments in this area through the ability to provide evidence on impact through Victim Impact Statements for cases taken at solemn level. In England and Wales the approach in this field has been more comprehensive with the option being available for victims to provide a Victim Personal Statement for all crimes reported to the Crown Prosecution Service. This allows a victim to provide a statement to the police on the impact the crime had on them. The information on the impact can be updated at any time by the victim and clear guidance has been issued to police on how to obtain such a statement.
138. The purpose behind a Victim Personal Statement is to provide the victim with “a voice” during key stages of the case. It is the opportunity for the victim to advise the criminal justice agencies of how the crime affected them whether this was emotionally, physically or financially. The information provided is intended to assist the Crown Prosecution Service with information in reaching key decisions relating to that case.
139. Whilst Victim Personal Statements have been available across England and Wales since 2001 their application has been inconsistent. The report of the Criminal Justice Joint Inspection on Victim and Witness Experiences in the

Criminal Justice system<sup>26</sup>, produced in 2009, found that, in a sample of cases, a Victim Personal Statement was only provided in 58% of them. We also spoke with police forces in England who stated that the implementation of the Victim Personal Statements was not universal. A key challenge was the bureaucracy the process created for both the police and the Crown Prosecution Service.

140. The underlying principle behind reporting on the impact which a crime has on a victim, representing the opportunity for the victim's opinion to be heard, is in our opinion sound and fully reflects the commitment and underlying principles of the Scottish Strategy for Victims.
141. Given this we support a move towards the provision of information on the impact of a crime to be provided for all crimes. Such a development would be a significant step forward in victim participation in the criminal justice process and would help deliver the principles of the Scottish Strategy for Victims as well as fulfilling the commitment made by COPFS in its "Our Commitment to Victims and Witnesses".
142. We acknowledge that the method of capturing and presenting this information does require careful consideration if it is to be effective and sustainable. Given the lessons learned from other jurisdictions, developing a process which is robust, clearly delivers the needs of the victims but minimises bureaucracy will be important and will require careful consideration.

***Recommendation 6 – Victim Impact Information***

*Chief Constables and COPFS should introduce procedures to ensure that victim impact information can be captured and provided for all cases.*

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<sup>26</sup> Criminal Justice Joint Inspection; Report of a Joint Thematic Review of Victim and Witness Experiences in the Criminal Justice System, May 2009. Available at [www.hmic.gov.uk/media/joint-inspection-victims-and-witnesses-20090429.pdf](http://www.hmic.gov.uk/media/joint-inspection-victims-and-witnesses-20090429.pdf)

## **CHAPTER 4 – RECEIPT OF CASE AND INITIAL CONSIDERATION**

### **Introduction**

143. This chapter of the report examines the stage at which a crime has been reported by the police to the Crown Office and Procurator Fiscal Service. The normal practice is that the report is considered by a Procurator Fiscal Depute who makes a decision on whether any action is to be taken in relation to the report, and accordingly what that action should be. This decision making process is referred to within COPFS as “case marking”. During this stage the Procurator Fiscal Depute will consider the information provided by the police and reach a decision on whether there is sufficient evidence available and if so, the most appropriate way to deal with the accused. For cases considered in this report all were determined as being suitable for formal proceedings at summary court level.
144. This chapter will examine key areas around the initial work of COPFS when a case is received as they relate to the victim of the crime. In particular we examine COPFS policy, the provision of information to victims and the initial assessment of vulnerability.

### **Strategy and Policy**

145. As previously stated COPFS has committed to the Scottish Strategy for Victims.
146. The Scottish Strategy includes a very strong statement of intent on the provision of information to victims:

*“Information for victims will be offered to all, and agencies will not rely on victims to request it. Not all victims are able to phone or visit offices to request information and some feel that their case is too trivial to bother anyone about. Victims who have not been cited as witnesses do not always know when to ask for information eg if they do not know the trial date, they, or their representatives, will not know when to ask for information about the verdict.”*

### **Leadership – Cascading Through the Organisation**

147. Leadership in relation to victims of crime is apparent from the very top of the organisation. The Lord Advocate Frank Mulholland QC has publicly stated:-
- “What I want to see is the rights of victims properly recognised and entrenched in the criminal law.”**
148. We found evidence of this approach from the COPFS portfolio holder for Victims and Witnesses and a raised awareness of victim issues from most of the senior members of staff to whom we spoke.

## **COPFS Policy**

149. COPFS sets out its current policy in relation to the provision of information to victims in two outward facing documents: the leaflet *Our Commitments to Victims and Witnesses (OCVW)* and the booklet *Our Commitments to Victims and Witnesses*. It supports these documents with a Handbook for Staff of the same title. COPFS launched these commitments following Phase 1 of this inspection and after we had initiated this phase. We found evidence of COPFS attempting to respond to the recommendation in the Phase 1 report in relation to consolidation of their commitments to victims.

150. The 10 Commitments to Victims and Prosecution Witnesses are as follows:-

We will:

1. Give you respect and a professional service at all times.
2. Communicate with you clearly and effectively.
3. Give you the information you need when you need it.
4. Deal with your case as quickly as possible.
5. Require you to give evidence in court only when you have to.
6. Ensure you can communicate with us if your first language is not English.
7. Take account of any extra support you may need.
8. Give the judge information about the effect of the crime on you.
9. Tell you how to claim expenses and deal with your claim as quickly as possible.
10. Work with other organisations to help you get the services you need.

## **Recent Developments**

151. Following its launch of OCVW in November 2010, COPFS released an e-learning package in March 2011 for completion by all staff by the end of June 2011. The mandatory nature of the training for all staff demonstrates a considerable commitment to these issues by COPFS, and does much to raise the profile of victim and witness issues within the organisation. COPFS had not tested the impact of the training at the time of writing this report.

152. Additionally, COPFS ran the pilot of a newly developed training course, *Victims and Witnesses*, in June 2011. The target audience for this course is all COPFS staff dealing with Victims, Witnesses and Nearest Relatives. The development of this course, and the title, has helped to raise staff awareness of victims and witnesses issues and ensure that they are firmly placed on the COPFS landscape.

153. It is noted that with the number of participants allowed for and with the course scheduled to run twice a year it would take a significant period of time to deliver the training to all staff. COPFS plans to deliver the training in Area offices would assist. However no indication of the staff numbers involved in this was provided. It is therefore unknown how long it will take to deliver the training to all staff dealing with Victims, Witnesses and Nearest Relatives. During our

inspection we noted that the sessions were weighted towards VIA referral categories at the expense of other victims and that there were no inputs from outside agencies such as Victim Support Scotland. COPFS has now advised that the course will now include inputs from the Witness Service and Victim Support Scotland.

154. The provision of this range of training is a positive development although we did find that the OCVW, e-learning and training course were launched in an uncoordinated way rather than as a cohesive package that would have delivered a more powerful message to staff.

### **Proactive Contact with Victims**

155. The current policy of COPFS promotes the referral of victims and witnesses assessed as vulnerable or potentially vulnerable in terms of the Vulnerable Witnesses Act 2004 to the specialist support service within COPFS provided by Victim Information and Advice (VIA). This is positive practice. Beyond that, COPFS will provide other victims with general information about the criminal justice system, information on their case and information about where to get support; but importantly, this is qualified by the statement “if they ask for it”.
156. This clearly falls short of the commitment made in the Scottish Strategy for Victims.
157. In relation to information provision by COPFS the Scottish Crime and Justice Survey 2009/10 reported findings that in crime where there was contact with the Procurator Fiscal, victims’ satisfaction was highest with the helpfulness of the staff and how the case was dealt with overall. Their satisfaction was lowest for the extent to which they were kept informed about the case and how quickly the case was dealt with.
158. This is a significant finding, as the right to information is an important one for victims of crime as reflected both in the European Union Framework Decision on the Standing of Victims in Criminal Proceedings, the Scottish Government’s 2001 Scottish Strategy for Victims and the Scottish National Standards for Victims.

### **Provision of Information to Victims**

159. COPFS’s leaflet on Our Commitments to Victims and Witnesses contains ten high level commitments and is available, as is the supporting booklet, on the COPFS website. COPFS also displays the 10 commitments in its offices and the supporting booklet is displayed in some. This is positive, although as we note below, we found that COPFS is not always proactive in providing this information to all victims.
160. The COPFS website also allows access to a Statement on the Treatment of Victims and Witnesses, from 29 June 2005, under the head Victims of Crime. There is much overlap between this Statement and OCVW, which clearly echoes the contents of the Statement. The launch of OCVW within COPFS

made reference to the fact that they contained nothing new and was akin to a re-branding. This being the case there is the potential for confusion in victims of crime having access to both the Statement and OCVW.

***Recommendation 7 – COPFS Website – Consolidation of Available Information***

*That COPFS consolidates the material available to victims on the COPFS website or removes older out-of-date material.*

161. As outlined in paragraph 155 COPFS are proactive in responding to the information needs of vulnerable or potentially vulnerable victims. However, for those cases not referred to VIA we found that COPFS will have no proactive contact with a victim until and only if a date for trial is fixed. To contextualise this of the 275,503 reports received by COPFS in the year 2009/10 only some 27,197 victims and witnesses were referred to the VIA service. Of those 27,197 victims and witnesses 56.5% were referred to VIA in relation to cases of Domestic Abuse. Therefore setting this important referral category aside the number of victims and witnesses referred to VIA in this timescale represents a very small number in relation to the number of cases reported to COPFS within one year. It should be noted however that not all reported cases will have an identifiable victim.
162. Should a trial be fixed, and if the victim is a witness, they will receive a citation to attend at court. The citation will include a covering letter with telephone and website details for COPFS and a 'Being a Witness' booklet. The letter refers to the phone number for COPFS Enquiry Point should the recipient have any queries.
163. Enquiry Point is a single telephone point of contact for dealing with all external enquiries to COPFS. It was set up in 2008/2009, and rolled out to all COPFS offices in October 2010. Enquiry Point now deals with in excess of 29,400 calls each month. Enquiry Point staff are specifically trained to answer queries and are provided with resources to allow them to do so. Their resources include access to detailed instructions on how to answer specific calls and access to COPFS IT systems to allow them to obtain information to assist in the answering of enquiries. In certain circumstances and if unable to deal with a call Enquiry Point staff will forward the call to the appropriate Procurator Fiscal's Office to be dealt with there.
164. The 'Being a Witness' booklet contains a good deal of information, including the 10 commitments of OCVW. OCVW was added to the booklet in November 2010. However there are no contact details contained within or attached thereto despite the fact that the back page invites recipients to contact the Procurator Fiscal's Office should they require the document in a different format or language. In the body of the booklet witnesses are referred to the separate 'Going to Court' document for address and telephone numbers.

165. A telephone contact number would be a useful addition now that COPFS has the benefit of Enquiry Point and a single phone number for enquiries. This would be more convenient to witnesses than the present arrangement which requires reference to more than one document.
166. We also found that there is no reference to the OCVW Booklet which expands and explains the statements confirming our finding that COPFS puts the onus and responsibility for seeking information on to the victim/witness, unless they have been referred to VIA.

**Suggestion 2 – Enquiry Point Telephone Number**

*COPFS should add the phone numbers for Enquiry Point to the Being a Witness booklet.*

167. Significant in this context is the number of cases that result in a trial (5,572 at summary level as outlined in paragraph 34) and COPFS’s ‘opt-in’ policy on information provision to the majority of victims. Only on being cited as a witness (not all victims will be) would a victim receive contact details for COPFS. Prior to this they would require to seek out contact details and make contact with COPFS in the absence of a COPFS reference number. They would have no awareness of COPFS OCVW unless they had accessed the website, or visited an office, and only then might they realise that they could request information.
168. Commitment 3 in the OCVW leaflet states:
- ‘[We will] Give you the information you need when you need it.’*
- whereas the explanatory booklet confirms that the information will be given if asked for. Taken at face value a victim might assume that they will be given the information they need when they need it, not that they will need to request it.
169. This is a major dilution of the commitment, and as we report above at paragraph 155 above, falls short of the commitment made in the Scottish Strategy for victims.
170. We examined 163 records in our audit of cases. Of those 163 victims, all were essential witnesses in terms of the evidential proof of the case. Only 90 were cited to give evidence and so were required to attend court. The cases of 73 victims were concluded in other ways – some by pleas of guilty, some by discontinuation of proceedings. Of those 163 victims in only ten cases could we find any evidence of contact between a member of COPFS staff and the victim.
171. We assume that those 90 victims (save for any VIA referrals within the remaining 73) would have automatically received correspondence from COPFS. That correspondence would have been a citation pack, including a citation, covering letter, map of the court location and the Being a Witness

booklet. From our review of the audit findings we could not confirm whether the booklets were sent to the cited witnesses.

172. Our enquiries with the National Print Unit, which is the unit within COPFS responsible for the sending out of witness citations and witness correspondence, confirmed the process for sending citations. First citations are sent out by post except in exceptional circumstances where there is insufficient time, in which case personal citations are issued direct from the individual Procurator Fiscal's Office concerned. All first citations contain the Being a Witness booklet. If a second citation is to be generated no booklet is included as the assumption is made that the recipient received this the first time around.
173. There is clearly a potential gap if a person receives a second citation. The covering letter with the first citation does urge the witness to 'retain' the booklet until the case has concluded. If the victim/witness is countermanded they are advised that they are no longer required on the date for which they were cited and the reason for this. For instance, this may be because the trial is to be adjourned, or because a warrant has been granted for the arrest of the accused. They are not advised what this means for them. They are not advised that they may be required again, that the case is not concluded.
174. An example of the impact this approach has on victims was found in a response to our telephone survey of victims:-
- "No information before citation and only knew what citation was about as I recognised name {of the accused} from newspaper article."*
175. Clarity of information and, as the Scottish Strategy states, 'in the right level of detail' is essential here. The above illustrates the importance of communication for victims of crime, a matter we address in Recommendation 9 below.
176. In terms of repeat citations, on the one hand victims/witnesses are advised to 'retain' a booklet until the completion of the case, on the other hand they are not provided with clear, detailed information allowing them to understand when that is.
177. This is a situation easily remedied by as little as an additional sentence in countermand letters advising recipients that they either will not (eg accused has pled guilty), or may be required to attend on a future date. This would leave them in no doubt as to whether the case was completed or not.

**Recommendation 8 – Improve Countermand Letters**

*That COPFS includes a sentence in countermand letters advising recipients that they either will not (eg accused has pled guilty), or may be required to attend on a future date.*

178. Of those witnesses who responded to our survey and who answered the question as to how well they were kept informed of their case by COPFS 27 out of 43 (63%) were not satisfied with how they were kept informed of their case by COPFS. On being asked whether the information they received from COPFS was sufficient for their needs, 24 of the 39 who answered this question (61%) stated that they had received no information from COPFS. As was the case in the Phase 1 report, and as evidenced above, we found little recorded evidence of victims proactively seeking information in the cases we reviewed.
179. We asked support agencies about the occurrence and effectiveness of communication between COPFS and victims. Victim Support Scotland responded to this confirming their view that the approach is not as victim friendly and focussed as it could be. Significantly their view was that unless VIA were involved, and they correctly identified that VIA are not involved very often in summary cases, there is a possibility of no information being provided to victims at all.

**Good Practice – Dumfries and Galloway – Proactive Approach**

During our fieldwork visits we came across an area of good practice in Dumfries and Galloway. In the Dumfries office we found both the OCVW Leaflet and Booklet clearly on display with copies available for visitors to the office, together with the framed OCVW, which we found in all offices. We were advised by a legal member of staff that they had given talks to community organisations and support agencies and had outlined OCVW and taken along the supporting leaflets and booklets to be handed out to those in attendance, underlining that these contained the level of service that could be expected from COPFS.

This approach clearly raises the profile of OCVW in a community and sends a clear message that information can be obtained if sought.

It was also in the Dumfries office that we were pointed to the Victims and Witnesses Portfolio Group member by all staff that we spoke to. The Portfolio Group member was clearly recognised within the office in relation to their role and active in promoting the portfolio there.

180. In summary, based on our case review and that of Scottish Criminal Justice Survey we conclude that in general COPFS is not routinely providing all victims with the information they need when they need it. COPFS needs to clarify their outward facing statements for victims.
181. If it is to continue with an “opt-in” approach it must be clear and accessible to victims. They need to know that they can opt-in and how to do that.
182. COPFS has come a long way on the journey to provide victims with information. However there is still work to be done before they can be said to be making information available to all victims when they need it.

**Recommendation 9 – COPFS Information Provision to Victims of Crime**

*COPFS should ensure that it proactively provides all victims with the information they need when they need it.*

**Victim Vulnerability**

183. A key role of COPFS during the initial assessment of a case is to consider the vulnerability of victims and witnesses with a view to taking any steps necessary to support the victim or witness during any subsequent court proceedings. The statutory basis for this is The Vulnerable Witnesses (Scotland) Act 2004.
184. The legislation was supported by guidelines from the Lord Advocate to Chief Constables and the police together with guidance to COPFS staff in the form of Crown Office circulars and bespoke training.
185. The role of the police in reporting on vulnerability is a key part of this and information on vulnerability should be included in the SPR during the reporting phase. Guidance on how and where to report on vulnerability is clearly detailed in guidance on the completion of the SPR and in specific force policies which detail those categories of vulnerability.
186. Police forces have also provided detailed guidance to officers to assist the identification of vulnerability and training is offered during initial Probationer Training at The Scottish Police College.
187. During the inspection we examined this training and found that officers spent a considerable amount of time on the issue of vulnerability and victim care. This includes inputs on Appropriate Adults, dealing with child witnesses and a dedicated input entitled “The Protection of Adults at Risk of Harm and Vulnerable Group” as well as training on dealing with domestic abuse and missing person cases where vulnerability will be present. In addition officers’ knowledge is tested in a practical exercise scenario that includes engagement with victims including vulnerable victims.
188. It was outwith the scope of this inspection to fully evaluate the effectiveness of the training delivered at the Scottish Police College in respect of vulnerability but we are content that there is a culture where vulnerability is recognised as a priority within probationer training and were encouraged by what we encountered.
189. Training for supervisory and management ranks at the Scottish Police College is delivered at The Leadership and Development Division. The inputs within this division have recently undergone a review to improve leadership development across all ranks and management roles within the police. We noted that there were no specific inputs to either supervisors or managers on victims of crime although there is a strong emphasis on quality of service which includes the

importance of feedback to service users and appropriate supervision and management to ensure the maintenance of service standards.

190. The approach within the Leadership and Development Division is to test learning through exercising using practical scenarios. At Sergeant and Inspector level courses this includes the running of daily crime tasking meetings which are used throughout Scotland to develop a planned and intelligence based response to emerging crime problems. We were informed that at present victim issues were not part of the scenarios considered in this exercise but given the key role of such Daily Tasking meetings in the identification and planning of a response to vulnerable and repeat victims, together with the critical role of Sergeants and Inspectors in monitoring the delivery of the service to victims, we would encourage the inclusion of victim based scenarios in such training exercises as a means of informing managers of the importance of victim needs.
191. COPFS designed and delivered training on the roles and responsibilities of staff in relation to the Vulnerable Witnesses Act 2004 to VIA and other staff at the time. This training has evolved and is now part of the new Victims and Witnesses Training Course as referred to in paragraph 154.
192. Once the police submit an SPR, the Procurator Fiscal Depute, acting on the information contained within the SPR, will consider whether a victim is vulnerable or potentially vulnerable. If victim is vulnerable, the policy of COPFS is that the victim or witness must be referred to its Victim Information and Assistance Service (VIA). COPFS policy also defines categories of cases which should be referred to VIA automatically.

#### **VIA's REMIT GUIDANCE**

**On initial case processing, or as soon as relevant criteria are apparent, whichever is sooner, the following must be referred to VIA, under the first referral heading that relates to the case:**

1. The **bereaved nearest relatives** in cases involving **deaths**:
  - which are reported for consideration of **criminal proceedings**;
  - where a **Fatal Accident Inquiry** is to be held;
  - where there will be, or there are likely to be, **significant further inquiries**; or
  - where in all the circumstances it is agreed that referral is appropriate.
2. **All** identifiable victims in **solemn** proceedings
3. **Victims** in cases of **domestic abuse** (partners and ex-partners).
4. **Victims** in cases where a crime has been committed because the offender thinks that the victim is of a particular race, religion, sexual

orientation, transgender identity or is disabled, whether that is true or not (Hate Crime)

5. **All victims of sexual crime.**
6. **Child victims or child witnesses** in any case.
7. **Other cases in which victims or witnesses may be vulnerable in terms of the Vulnerable Witnesses (Scotland) Act 2004 and may require help giving evidence or may have additional needs** due to their circumstances or personal characteristics. These can include but are not restricted to:
  - asylum seekers
  - dependents abusing parents/carers, or by parents/carers abusing adult dependents
  - English not as a first language
  - learning difficulties
  - mental health issues
  - physical disabilities
  - sexual orientation/gender identity (Lesbian, Gay, Bisexual, Transgender)
  - terrified of accused and/or of reprisals
8. **Other cases in which a legal member of staff believes the victim would benefit from VIA involvement.**

193. COPFS added the last referral category (8) to the remit for referral to VIA on 14 October 2010 following the publication of the Phase 1 Report and to comply with a service gap identified in that report. This provides for a legal member of staff to make a referral where he or she believes the victim would benefit from VIA involvement.
194. This change was an important and positive one ensuring that where victims would benefit from the assistance of VIA there is the facility for them to be so referred, even where they do not fall into the other referral categories.
195. During our inspection we found changes had not been made to the COPFS Future Office System (FOS), which is the COPFS IT system for managing the marking and processing of cases, to reflect the introduction of this new category. The absence of this undermines the use of this category and also makes it more difficult to monitor its use.

**Suggestion 3 – Monitoring of Referrals to VIA**

*COPFS should consider enhancing its IT to enable accurate monitoring of referrals to VIA where a legal member of staff believes the victim would benefit from VIA involvement.*

196. We explored the identification and assessment of vulnerability by auditing SPRs and COPFS case papers and by exploring the issue with both police officers and COPFS staff. Victims were asked their opinion on the effectiveness of policies during the telephone survey.
197. There are two categories of referral to VIA. The first relates to the type of case eg domestic abuse, sexual cases, deaths, hate crime and solemn proceedings. The cases audited for this inspection were not cases falling into these categories.
198. The second category relates to the victim, who may be vulnerable in terms of The Vulnerable Witnesses (Scotland) Act 2004, or the additional category, where a member of legal staff believes that they would benefit from VIA involvement.
199. Whilst responsibility for victim vulnerability lies with both the police and COPFS for a Procurator Fiscal Depute to make the decision that a referral to VIA is appropriate, in a 'victim' referral, they require information on a victim's vulnerability to be provided by the police. Our audit of COPFS case papers and SPRs found that only a small number of the 163 cases were referred to VIA due to the victim being eligible for referral with a small number of additional cases referred due to the vulnerability of a witness.
200. There are two places within an SPR where a Procurator Fiscal Depute may expect to find information on vulnerability. These are within the narrative of the report, particularly the remarks section, and in the Witness Details section, which is a mandatory field for completion by police officers.
201. We found that in almost all cases the SPR did contain information about vulnerability, albeit this tended to be within the witness section of the SPR and simply confirmed there was no vulnerability. Only a small number of SPRs included additional information on vulnerability within the Remarks Section and these related to the accused rather than the victim.
202. We did find some cases where additional information on victim vulnerability was included even though the victim was classified on the SPR as not being vulnerable. This perhaps raises questions around the approach taken by police officers' to identifying vulnerability. It is nevertheless recognised that the nature of the cases reviewed in this inspection ie where officers contact with the victim is likely to be brief, may have made identification of some categories of vulnerability more difficult.

203. We explored this with police officers during Focus Groups and found that they were aware of the Vulnerable Witnesses (Scotland) Act 2004 and the various categories within this legislation. Officers were confident about marking a victim or witness as vulnerable if it was obvious to them that they fell into a specific category eg disability, age etc. They were less confident about their ability to categorise for less obvious or general vulnerability categories. Examples given included mental health or where the victim suffered from fear or distress.
204. The nature of mental health or stress means that it will often be hidden and difficult for police officers to identify these areas of vulnerability. There is also an acknowledgement that officers have no power to require a victim or indeed an accused to disclose information that may help identification of a hidden vulnerability.
205. Staff from COPFS concurred with this stating that the police often did pass information to COPFS but the information was not always complete or accurate. On occasion COPFS had to request further information which can of course be time consuming and cumbersome. There was recognition that identification of vulnerability was difficult for police officers.
206. In conclusion, it is apparent from the inspection that officers are aware of certain types of victim vulnerability and the need to report this within the SPR. Given the continued challenges of identifying less obvious vulnerabilities we would encourage police forces and COPFS to continue to monitor their effectiveness in this area and continue to promote the importance of this issue to their staff.

***Suggestion 4 – Victim Vulnerability Policies***

*Chief Constables and COPFS should continue to promote policies aimed at supporting vulnerable victims of crime and should monitor their use and effectiveness.*

207. During our telephone survey we asked victims to give their views as to whether their needs in relation to attending at court were met. Whilst only six victims responded to this question, reflecting the small number of cases which proceeded to trial, all were content with the service provided.
208. One of the respondents to the questionnaire stated:-
- “Really impressed by service after court and VIA. All witnesses should get the same treatment.”*
209. During the inspection we spoke to VIA staff in all three COPFS areas and found them to have a positive attitude to their work. There was evidence that they proactively looked for referrals and worked closely with legal staff if there was any doubt about a referral. This approach is to be commended.
210. We also asked national support services about their views on how vulnerability was addressed. Victim Support Scotland highlighted the

established protocol between them and VIA and confirmed that the working relationship between the two organisations continues to improve.

211. They took the view that victims qualifying for special measures seemed to be well identified by COPFS who work well with VIA and the Witness Service, an arm of Victim Support Scotland which provides information and support to all witnesses at all Sheriff and High Courts, to ensure that these are used.
212. Their perception was that as many witnesses fall outwith the criteria for special measures, ie they do not fall within the statutory definition of a Vulnerable Witness, there continues to be a requirement for enhanced flexibility in the system.
213. All agencies consulted spoke highly of the service provided by VIA. This also illustrates the gap in service provision between those who qualify for a service by VIA and the majority of victims at summary level who do not. However the recommendation contained in this report to enhance communication between COPFS and victims of crimes on the progress of their case will go some way to close this gap.

## **The Future**

214. At the time of this report COPFS had not yet established an evaluation framework for OCVW and there is currently no effective monitoring of the delivery of the commitments. COPFS has an evaluation process in the planning stage and it is commendable that evaluation of OCVW is being actively considered. This is post hoc with the evaluation process being tailored to now existing OCVW.
215. The planning around the evaluation process may have been more effectively carried out at the same time as OCVW were crafted to ensure that the commitments therein were measurable. Whether OCVW can be measured by the evaluation process being considered remains to be seen.

## **CHAPTER 5 – ATTENDING COURT, TRIAL AND CASE CLOSURE**

### **Introduction**

216. This chapter examines the stage when a case proceeds to court including where the victim may be required as a witness for the giving of evidence. The chapter examines the key issue of victim participation as a witness and through to the conclusion of the case. This will include the issue of communication by COPFS to a victim of the outcome of their case.
217. The chapter also examines the procedures when a victim or other witness has property seized and retained that will assist proving the case in court. These items are known as productions.

### **At Court**

#### **Victim Participation as a Witness**

218. As stated the important national documents for victims of crime are the Strategy and the National Standards for Victims of Crime. The National Standards make reference to the following in relation to victims' participation in criminal proceedings:-

**'Your participation in criminal proceedings will usually be as a witness. A number of people will want to speak to you about what happened to you before, during or after the crime, and any effect the crime has had on you.'**

219. Attendance at and giving evidence in court can be a daunting, yet important part of the criminal proceedings process for a victim and is clearly an important aspect of participation as identified in the National Standards.
220. Having specifically identified this aspect of participation it then becomes important to contextualise it.
221. For the period April 2009 to March 2010, COPFS received 275,503 criminal reports. Only 5,572 proceeded to trial in the Sheriff Court or District Court at summary level. These figures reflect the difficulty faced by the inspection team in identifying cases with a victim which had proceeded to trial.
222. They reflect the fact that while there are a great many victims of crime only a small number (in the order of 2.6%) will ever potentially be given the opportunity to participate in the proceedings by giving evidence in court. Victims may in some cases not be essential witnesses and not therefore cited to attend at court.
223. VIA statistics for 2010-11 show that during that time period 19,211 summary cases were referred to VIA. This figure is 7.2% of the total number of criminal cases reported to COPFS of which 4.9% were cases involving Domestic Abuse.

224. Leaving domestic abuse aside, only 2.3% of the criminal cases reported to COPFS were referred to VIA in respect of summary proceedings. These figures show that of the large number of cases referred to COPFS, many of which will have identifiable victims, only in 2.3% of cases dealt with at a summary level will victims receive information proactively in relation to their case and the criminal justice system.
225. These figures explain why we found it difficult to identify in our audit, summary cases within the chosen case categories, where there had been a VIA input.
226. In conclusion only a small number of victims go to court as witnesses allowing them to participate in this way and of those only a very small number who are not the victims of Domestic Abuse are supported by VIA in relation to summary proceedings.
227. We found it difficult to secure data on victims' participation as witnesses as no statistics are kept by COPFS that quantify the proportion of victims/witnesses who are cited to attend at court and do so.
228. This was in sharp contrast to the situation in England where the Crown Prosecution Service was readily able to provide us with figures in relation to witness attendance at court.
229. Figures in relation to the adjournment of trials are kept by The Scottish Court Service. However these figures only relate to situations where there are Crown motions to adjourn as a result of witnesses being absent. They do not keep data which confirms whether the witness was cited or not and whether any witnesses were in attendance or not.
230. COPFS is party to initiatives to address the issue of cases repeatedly calling at court for trial commonly referred to as "churn". This can have an adverse effect on victims. Their case can take much longer than necessary to go through the system making it more difficult for them to recall events in their evidence and causing inconvenience by way of repeat citations or attendances at court.
231. One such initiative is called 'Getting People to Court' which is led by ACPOS as part of The Scottish Government's "Making Justice Work". This aims to maximise the number of trials proceeding on the date they are first set down for trial.
232. Alongside this national initiative there have been and are ongoing local initiatives. These developments aim to make witnesses interaction with the criminal justice system as good as it can be.
233. However with no baseline figure of those cited/those in attendance it is difficult to understand how the outcomes will be evaluated. Of particular interest was a local initiative in Lothian and Borders, where manual counts were to be used to gather this type of information.

234. Monitoring and evaluation of these issues has not previously been factored into any processes or IT systems, making it difficult to see how improvements can be measured other than anecdotally, or by employing cumbersome, time consuming and resource intensive manual methods.
235. If IT improvements are made this may assist the keeping of data in relation to victims and witnesses to allow for meaningful analysis of victim and witness attendance and court and the effect this has on court churn.
- It would allow for analysis of whether the problem was one of process ie victims/witnesses were not being successfully cited, or one of attitude of the victim/witnesses, ie they were being cited but were not attending.
  - In securing a proper understanding of the problem a solution will be more achievable.

***Recommendation 10 – Evaluation and Monitoring of Court Churn***

*COPFS should improve their IT system to allow for analysis of victim/witness attendance at court.*

**After Court**

**Outcome of Case**

236. The communication and information relating to the outcome of a case is dealt with at the conclusion of the case.
237. Information provision of the outcome of the case is of particular importance and interest to victims. This was confirmed by our survey where almost half of those victims volunteering further comments made reference to the outcome of the case. They confirmed that this was of interest to them and many advised of their dissatisfaction on not being told same. Amongst the comments made were:-

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*“only information was press reports pointed out by cleaner”*

*“Not told what happened to him”*

*“Knowing final outcome would have brought closure but no information at all.”*

*“Not informed what happened – would have liked to have known disposal”*

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238. Victim Support Scotland are firmly of the view that every victim deserves to know the outcome of their case.

239. Women's Aid are of the view that where there is no information provided as to why decisions are made in a case, this can have a significant impact on the women and children involved making them potentially reluctant to report further incidents.
240. In our first report we supported the principle that victims should be informed when a significant decision is made relating to their case. During the course of this inspection we noted that COPFS has made some progress in informing some victims of decisions taken and the progress of their case, albeit limited. The evidence from our survey of victims and from other agencies is that this is an important issue for victims.
241. In Recommendation 9 of this report we have recommended that COPFS proactively provide victims with information when they need it. However we particularly support informing victims of the outcome of their case which reflects the importance of this issue to victims of crime and fulfils the underlying principles of the Scottish Strategy for Victims.

***Recommendation 11 – COPFS – Information to Victims on Outcome of Case***

*COPFS should inform victims of crime of the outcome of their case at the conclusion of proceedings.*

242. The conclusion of court proceedings does not always mean the end of the victim's involvement in the criminal justice system, and this is recognised by COPFS in their OCVW. Commitment number 9 is:-
- [We will] tell you how to claim expenses and deal with your claim as quickly as possible.**
243. This commitment has the least supporting literature in the booklet version of OCVW and is clear and unambiguous as are the explanatory statements. However notably it provides no certainty around the timescales within which expenses should be sought and paid.
244. We were unable to find records in relation to the payment of expenses within the cases we audited which is a difficulty in relation to the monitoring of this commitment. We did make contact with COPFS Finance Division on this matter. They confirmed that while they have no internal targets their working practice is that once they receive a claim and citation from a witness a cheque will be issued and sent within 24 hours. They keep an audit trail in relation to the cheques and a note of all the citations they have in their system. These records can be matched up if required however the details are not recorded in a joined up way.
245. An overwhelming number of those who responded to the telephone survey were satisfied or very satisfied as to how these had been dealt with by COPFS with only one witness being very unsatisfied.

246. In conclusion this is an area where we secured very positive feedback and it would appear that the clarity and detail of information is meeting the needs of witnesses and is supported by sound systems and processes.

### **Return of Victims Property – Productions**

247. When a crime has been committed the police have the power to seize and retain property which will be of evidential value in proving the case in court. Once seized the property is known as a production. The police are responsible for the safe storage of the productions until the case is concluded.

248. When a decision is taken by the local Procurator Fiscal to begin proceedings the responsibility for determining when the property should be returned to the owner then lies with COPFS. The recognised practice across Scotland for the authorisation of return of property or its disposal is the signing of a Production Release Note (PRN) by a Procurator Fiscal. If the crime has not been detected responsibility for returning the property lies with the police.

249. Productions can be of financial or sentimental value to the victim, or of a nature that its retention can cause the owner inconvenience. During the inspection we explored the procedures between the police and COPFS for the return of productions and the impact current practice had on victims of crime.

250. We found conflicting views on the issue of productions. Victims consulted during our Telephone Survey were generally satisfied with how the police and COPFS dealt with the return of their property and Victim Support Scotland stated that they were not aware of this being a significant issue for victims. On the other hand police forces stated that procedures with the COPFS for the return of productions were unclear and inefficient and often led to complaints from members of the public, including victims, about the return of their property.

251. We examined the policies of the police forces inspected and COPFS. All three forces examined have detailed policies and guidance on the seizure and retention of productions but we found that there was little detail on the process for the subsequent disposal and return of the productions beyond stating that this relied on the issue of a Production Release Note by a Procurator Fiscal.

252. COPFS have clear policies on the return of productions most notably a commitment in the COPFS Book of Regulations that once a case has been concluded *“Procurator Fiscals should ensure that all productions, including documentary productions, letters etc are returned to the owners without delay”*. COPFS staff guidance also states that once a case is completed it is the responsibility of the presiding Fiscal to complete the Production Release Note, or cause one to be raised where no such note is included in the case papers, in order that the police can return the property to the owner.

253. During our fieldwork we discussed the issue of productions with staff and management within both the police and local Procurator Fiscal Offices. The following is a summary of what we found:-

- COPFS procedures for dealing with productions have not kept pace with criminal justice reform and the increase in case disposals that are now available. There is no organisational procedure in place for Production Release Notes to be issued for Fiscal Fines and we found confusion between the police and COPFS around who is responsible for authorising the release of productions where a decision is taken to take no proceedings in a case.
- The application of COPFS's policies on the completion of Production Release Notes for the return of productions is inconsistently applied across the country.
- The police reported having to tackle a backlog of productions, some having been stored for many years. Some of the forces have had to employ additional staff solely to deal with this backlog which given current budgetary constraints does not represent the best use of resources. The long term storage of these productions also represents an additional organisational risk to police forces.

254. Overall it was clear that the service being provided in this area is inconsistent. Whilst we did not find significant evidence of a negative impact from the victims consulted for this inspection it was nevertheless our view that the current procedures between COPFS and the police are inefficient and leads to a diminished service for members of the public including victims of crime. We have noted that work is currently ongoing between ACPOS and COPFS to develop a simplified process for the police to receive information on closed cases that will allow for the early release of productions.

***Recommendation 12 – Protocol for Release of Productions***

*Chief Constables and COPFS should develop and implement a formal agreement that details clear procedures to ensure the efficient return of property to victims and owners after the conclusion of a case. This agreement should clearly define the respective roles and responsibilities of police forces and local Procurator Fiscal Offices.*

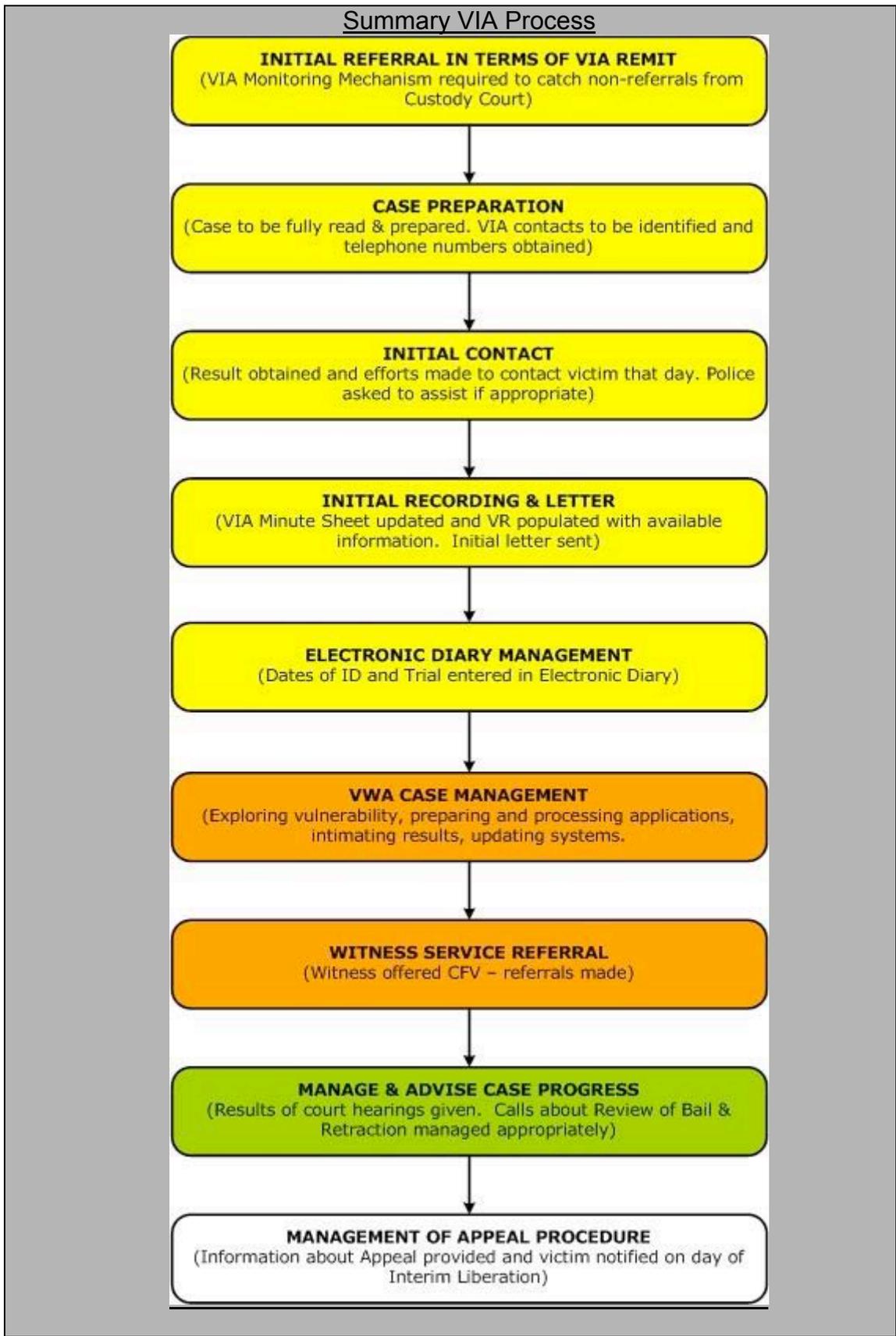
## **CONCLUSION**

255. This joint thematic inspection examined the service provided to victims of crime by both the police and COPFS for those crimes which were commenced in the summary courts. We measured the service provided against the three objectives of the Scottish Strategy for Victims and considered the published policies of the three police forces examined and COPFS. Our inspection was supported by a detailed audit of crimes and a telephone survey which obtained the personal views and observations of victims of crime.
256. Overall we found that in some areas the service provided by both the police and COPFS to victims of crime was good. In particular we found evidence that the police offer a good service when a crime is initially reported and that the service provided to victims by COPFS VIA was of a high standard albeit that the number of cases referred to VIA was relatively small particularly for cases commenced in the summary courts.
257. We make a number of recommendations within this report that aim to enhance the quality of service offered to victims including areas such as repeat victimisation and the identification and reporting of vulnerability. We note the developments within COPFS to promote its commitment to victim and witnesses but found areas where this could be improved including information provision and the keeping of data for meaningful statistical analysis. We also examined the process post trial and make recommendations relating to the return of productions to victims and others.
258. An objective of the strategy we examined was victim's participation in the criminal justice system. Specifically we explored how a victim's view on the impact the crime had on them could be captured, reported and used throughout the criminal justice process. We noted work in this area in England and Wales and made recommendations to enhance the profile of the victim by providing information on the impact a crime has had on them.
259. Throughout the inspection there was one issue which emerged consistently throughout our work. This related to how the police and COPFS communicated with victims of crime and kept them informed of the progress of their case. In this regard The Scottish Strategy for Victims clearly states that a victim should receive proactive notification of what is happening with their case.
260. The evidence we gathered throughout the inspection from The Scottish Crime and Justice Survey 2009/2010, The Scottish Policing Performance Framework 2009/2010 and our telephone and postal survey of victims provided clear evidence that the primary source of dissatisfaction for victims was with not being kept adequately informed, particularly around the final outcome of their case.
261. We did find evidence of improvement by some police forces in this area. However we also found that the current policy of COPFS, which relies on the victim "opting in" to request information on their case, falls short of what was committed to by COPFS in the Scottish Strategy for Victims. There was strong evidence from our telephone survey that victims were dissatisfied with the

service provided by COPFS in providing updates on the progress of cases and that was particularly pronounced in relation to being informed on the final result of their case.

262. Consequently we consider this issue to be a principal finding from our inspection and are of view, as outlined in Recommendations 3 and 9, that to improve victim's satisfaction police forces and COPFS should set and deliver clear service standards for the proactive updating of victims as to the progress of their case, including the outcome.

**APPENDIX A – COPFS VICTIMS ASSISTANCE WORKFLOW DIAGRAM**





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