



Consultation response to

**Making a Difference: Improving Access
to Justice for Victims and Witnesses of
Crime**

Department of Justice

18th January 2013

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*Open to **all women and men** affected by domestic violence*

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1.0 Introduction

Women’s Aid is the lead voluntary organisation in Northern Ireland addressing domestic violence and providing services for women and children. We recognise domestic violence as one form of violence against women. Women’s Aid seeks to challenge attitudes and beliefs that perpetuate domestic violence and, through our work, promote healthy and non-abusive relationships.

2.0 Core work of Women’s Aid

The core work of Women’s Aid in Northern Ireland, including Women’s Aid Federation Northern Ireland and the 10 local Women’s Aid groups is:

- To provide refuge accommodation to women and their children suffering mental, physical or sexual abuse within the home.
- To run the 24 Hour Domestic Violence Helpline.
- To provide a range of support services to enable women who are leaving a violent situation to rebuild their lives and the lives of their children.
- To provide a range of support services to children and young people who have experienced domestic violence.
- To run preventative education programmes in schools and other settings.
- To educate and inform the public, media, police, courts, social services and other agencies of the impact and effects of domestic violence.
- To advise and support all relevant agencies in the development of domestic violence policies, protocols and service delivery.
- To work in partnership with all relevant agencies to ensure a joined up response to domestic violence.

Throughout this consultation response, the term “Women’s Aid” is used to reflect the overall Women’s Aid movement in Northern Ireland, which is made up of ten local Women’s Aid groups and Women’s Aid Federation. The ten local Women’s Aid groups are all members of Women’s Aid Federation Northern Ireland. Each Women’s Aid group offers a range of specialist services to women, children and young people who have experienced domestic violence.

3.0 Women’s Aid statistics (2011-2012)

- 12 refuges with 300 bed spaces, playrooms and facilities.
- 831 women and 586 children sought refuge.
- 15 resource centres for women seeking information and support; group work and training.
- 3,663 women and 4,152 children accessed the Floating Support service, and a further 1,909 women accessed other Women’s Aid outreach services, enabling women to access support whilst remaining in their own homes and communities.
- Move-on houses for women and children leaving refuges.
- The 24 Hour Domestic Violence Helpline, open to all women and men affected by domestic violence, managed 43,949 calls.

4.0 Additional Women’s Aid statistical data

- Since 1999, Women’s Aid across Northern Ireland gave refuge to 15,545 women and 14,942 children and young people.
- During the last 17 years Women’s Aid Federation Northern Ireland managed 326,809 calls to the 24 Hour Domestic Violence Helpline.

5.0 Statistics: Domestic violence & violence against women

- Domestic violence is a violation of Article 5 of the UN Universal Declaration of Human Rights – that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.
- The joint DOJ, DHSSPS Strategy “Tackling Violence at Home” estimates that the cost of domestic violence in Northern Ireland, including the potential loss of economic output, could amount to £180 million each year.
- UNICEF research released in 2006, showing per capita incidence, indicates that there are up to 32,000 children and young people living with domestic violence in Northern Ireland.

- Where the gender of the victim was known, 75% of adult victims of domestic crimes recorded by the PSNI in 2009/10 were female.¹
- Over 30% of all domestic violence starts during pregnancy.²

6.0 Domestic violence: Crime statistics (Source: PSNI Statistics 2011/12)

- Domestic Violence is a crime. PSNI statistics for 2011/12 indicate that there were more recorded crimes with a domestic motivation (10,387) than the combined total of all the following crimes (10,327) – all recorded sexual offences (1,836), shoplifting (6,201) and theft of a motor vehicle (2,290).
- PSNI Statistics for 11/12 indicate that they responded to a domestic incident every 21 minutes of every day of the year.
- The total of 10,387 crimes with a domestic motivation in 11/12 represents an average of approximately 1 domestic crime every 51 minutes in Northern Ireland.
- The number of all recorded offences of murder in Northern Ireland in 11/12 total 16. Those classed as having a domestic motivation total 3. Therefore, 19% of all murders in Northern Ireland in 11/12 had a domestic motivation.
- There were 553 rapes (including attempted Rapes) in Northern Ireland in the period 2011/12.

(Source: PSNI Statistics 2011/12)

- Official sources (NISOSMC) estimate that up to 80% of sex crimes are not reported.

¹Findings from the PSNI Crime Statistics Report 2010/11 N.B. "Adult" defined as aged 18 and over

²Women's Aid Federation Northern Ireland

7.0 Consultation response

- Women's Aid Federation Northern Ireland welcomes the publication of the *Making a Difference: Improving Access to Justice for Victims and Witnesses of Crime: 5 Year Strategy*, and the opportunity to comment on it on behalf of our 10 local groups.

8.0 General Comments

- Women's Aid welcomes the commitment to improving the experience of the justice system for victims and witnesses within this draft strategy. We also welcome the continued positive developments in the treatment of victims and witnesses, and the contribution that this strategy will make in consolidating the work that has been done thus far. We are encouraged that this document draws on previous work that has been conducted on the treatment of victims and witnesses in the criminal justice system, including the Criminal Justice Inspection reports on care and treatment of victims and witnesses and the operation of special measures, and the Committee for Justice report on services available to victims and witnesses of crime, to which Women's Aid submitted evidence. It is also encouraging that the document makes reference to European standards in the form of the Directive, and that the strategy has incorporated these requirements. We are pleased that the strategy includes many of the recommendations of the aforementioned reports, and that it has taken on board much of the evidence and points made by Women's Aid in those investigations and in other consultation responses to the Department of Justice.
- Our organisation's views on the effectiveness of the current approach and services provided by Criminal Justice Agencies to victims and witnesses of crime are based upon more than three decades supporting women and children who have experienced domestic violence and is a reflection of their and our interactions with the criminal justice system in Northern Ireland.
- The care and treatment of victims at every stage of the criminal justice process is vital to ensuring access to justice. This requires an integrated, consistent multi-agency approach which endeavours to ensure that wherever and whenever possible there is a continuity of care for victims. Bad experience in the criminal justice system leaves victims exhausted and frustrated, inhibits victims from being able to give best evidence, leads to increased attrition rates and can additionally contribute to a sense of having been re-victimised. It is our hope that this strategy will go a long way towards addressing the issues that have been identified in the treatment of victims and witnesses in the criminal justice system and lead to an improved system overall.

9.0 Qs 1+2. Does the title ‘Making a Difference’ convey the right message for the strategy?

- Although the title is somewhat aspirational, we find it to be a little vague and not overtly positive. We would suggest something more concretely positive, such as ‘Making it Better’, as a title.

10.0 Q3. Does the aim reflect what we want to do for victims and witnesses?

- Women’s Aid is supportive of the overarching aim of the strategy, to “provide better quality services, responsive to the needs of victims and witnesses, and secure a more positive experience for those who engage with the criminal justice system” (at paragraph 23, page 9).
- We would however question the wording of the aim to ‘secure a more positive experience for *those who engage* with the criminal justice system’ (emphasis added). We are of the view that engagement with the criminal justice system should not be a prerequisite for being treated with dignity and respect and for having the right to support. Many victims and witnesses of crime are reluctant to engage with the criminal justice system, many reasons for which are discussed in this document. They are nonetheless still victims of crime who need support and respect, even if they choose not to engage with the criminal justice system. We would suggest this aim is re-worded to read:

‘To provide better quality services, responsive to the needs of victims and witnesses, and secure a more positive experience for victims and witnesses within the criminal justice system’.

- We agree that the main issues outlined in paragraph 22 (page 8) are key issues that victims and witnesses commonly identify. In addition there is a further key issue which needs to be included; we would strongly recommend adding ‘the need to be protected and feel safe’ to this list. Victims should be able to feel safe for the entirety of the criminal justice process, and this should be facilitated throughout the entire criminal justice process. Issues that we have identified in the course of our work include not being informed promptly about the progress of a case, or whether a perpetrator is in jail or out in the community, meeting a perpetrator and / or his friends or family members in court waiting areas etc.; all of these issues are a cause of significant distress for them. We believe that creating the conditions to help victims and witnesses feel safe while engaging with the criminal justice process should be a primary consideration and should be explicitly interwoven into all aspects of this strategy.

- In terms of the principles outlined at paragraph 25 (page 9), Women’s Aid agrees that these principles are an appropriate basis for the strategy. We would also share the view of Victim Support NI that the principle of ‘accountability’ should be added to this list. While it is important for the criminal justice system to take collective responsibility for victims and witnesses within the system, it is equally important that each branch is accountable in the event that the victim wishes to lodge a complaint, and this should be reflected in the strategy’s principles.
- Women’s Aid supports the strategy’s aspiration of “high quality and effective partnership working at all levels between the criminal justice agencies, our voluntary sector partners and all those with an interest in supporting victims” (at paragraph 10, page 6), and agrees that a joined up approach will be essential to achieving the aims of the strategy. As a voluntary sector organisation working with victims of domestic violence, Women’s Aid is committed to continuing to work in partnership with criminal justice agencies to improve the experience of the system for victims and witnesses of crime.
- It would be useful if the document provided more detail on how this joined up approach will be achieved.
- We would, however, strongly contend that it may not be appropriate in all cases for “all those with an interest in supporting victims” to do so directly. There are some instances in which it could in fact be damaging for an individual or organisation without the relevant expertise to support victims directly, for instance in cases where victims have been trafficked.

11.0 Q4. Are you content with the definitions of victim and witness?

- The definition of victims and witnesses (pages 7 – 8) is largely satisfactory. However, it does not mention that many people going through the criminal justice system are both victims *and* witnesses. This should be reflected both in the definitions within this document, and within any materials that are given to victims and / or witnesses, in order to aid their understanding of their place within the criminal justice process.
- We would also recommend that the definition of victims is included to recognise the effect that trauma, post-traumatic stress disorder and other psychological effects of serious crime can have on the close family of victims. While the definition of victim extends to family where the victim dies or is rendered unable to communicate, we would contend that the psychological impact of serious crimes is significantly felt by their close family. In our experience, the effect of sustained or serious sexual or domestic violence on

victims has an enormous impact on those close to or caring for the victim. It is without doubt that the effects of these crimes render close family direct victims of the crime, in a similar manner to a victim's death or serious physical harm.

12.0 Q5. Do the proposed 'themes' reflect the main areas that need to be addressed? Q6. Do you consider the themes to be appropriate and relevant?

- We are satisfied that the themes largely reflect the main areas that need to be addressed and consider them to be appropriate and relevant. We will address the detailed content of each theme in the answers to questions 7 - 9 below.

13.0 Q7. Are you content with the wording and scope of the themes? Q8. Are you content with the actions included within the themes? Q9. Are there other actions that should be included?

Theme 1: Status and treatment of victims and witnesses (pages 17 – 19)

- We welcome the creation of a Victims and Witness Charter and its proposed statutory underpinning. We are also supportive over the entitlements for victims and witnesses proposed under the Charter, and believe they reflect the main priorities of victims and witnesses engaging with the system.
- It would be useful if more detail could be provided on what constitutes a vulnerable or intimidated victim. Women's Aid would urge that at the very least all victims of domestic and sexual violence are automatically defined as vulnerable in this context due to the nature of the crimes against them.
- We welcome the commitment to review the content of the Code of Practice for victims to ensure that it reflects more clearly the needs of victims.
- We support the undertaking to be more responsive to victims' needs in terms of addressing problems and issues that arise outside of the formal complaints mechanism. We are also in favour of reviewing the current complaints mechanism itself, to ensure that it is user friendly and accessible. Our groups have reported that they find it difficult to navigate the complaints procedure on behalf of their clients, and if this is the experience of professional support

staff, it would be fair to say victims who do not have experience of the system would find it impossible to navigate.

- Regarding the provision of “mandatory training on the care and treatment of victims and witnesses for all staff in the criminal justice organisations”, we would strongly urge that Legal Practitioners at all levels should engage in domestic violence awareness training and that this training should be embedded in their programmes of continuing professional development. We would also urge that the proposed mandatory training is extended to members of the judiciary. While there are many excellent judges with a keen knowledge and understanding of the complex issues that surround domestic violence-related crime, in our experience this is not the case across the board. We have found there to be inconsistency in sentencing, in referrals to the PBNi IDAP programme, in the granting of non-molestation orders, and in the understanding of domestic violence in general. While we appreciate the importance of judicial independence, we would also submit that judges like any other professional require training in specialist areas of their field. Considering the prevalence of domestic violence in Northern Ireland, all judges in criminal and family courts should be sufficiently trained to recognise domestic violence and to deal with it appropriately. It is essential they have an in-depth understanding of the nature of domestic violence, the myths surrounding it and how abusers will try to use outside agencies, including criminal justice processes, to further the abuse.
- In relation to the commitment to outline measurable standards and mechanisms to monitor and assess delivery of services to victims and witnesses, and to publish the results, Women’s Aid would be eager feed into such a process on behalf of our clients.
- We welcome the aim to tackle delay in the criminal justice system, and look forward to the upcoming detail outlined in the Faster Fairer Justice Bill. Delays in the justice system are a source of on-going concern to our organisation. The court system is currently set up to cater for optimum judicial time management, not victim care and convenience in this regard. The consequences of protracted proceedings can be enormously damaging, particularly to the ability of the victim to retain confidence in the system and to remain within the process. Delays impose additional unnecessary strain for individuals at a vulnerable time in their lives and also practical and financial constraints in respect of ensuring childcare and transportation. Regarding daily scheduling of cases in court, it is not uncommon for women to attend court first thing in the morning, only to find that they are still waiting for proceedings to commence in late afternoon. In addition to being deeply frustrating, this presents particular difficulties for women with young children and for those with caring responsibilities.

- It is our view that the timely and concise availability of information on court dates, times and the necessity to attend, would substantially improve delays in the system.
- It is well-established that perpetrators of domestic violence often utilise the legal process to further exert power and control and to continue to abuse their victim through intentionally delaying, frustrating and subverting the process. We are of the opinion that all criminal justice agencies should have systems in place to recognise when this is taking place and to guard against it.
- Women's Aid would also welcome greater steps to ensure that costs and/or financial penalties are imposed where there is demonstrable evidence of a clear and deliberate attempt to unnecessarily obstruct and delay the legal process.

Theme 2: Communication and information provision (pages 19 – 21)

- Women's Aid supports the aim within theme 2 to better communicate with and inform victims and witnesses throughout the entire criminal justice process. We welcome the establishment of a Victim and Witness Care Unit, and the consolidation of care for victims and witnesses under a single point of contact for each region. The commitment to provide information at the earliest possible stage is also to be welcomed.
- We regard the implementation of clearly defined communications procedures with accompanying timescales and milestones as a hugely positive step. It is essential that, when deciding upon these milestones, the needs of the victim at each stage of the criminal justice process are the primary consideration. The new procedures should also interact with and build on the expertise and systems already in place, for example the outreach and information provision work that is already carried out by the Probation Board NI. It would be particularly helpful if the information provision would extend beyond that for victims of a crime that carries a 2 years+ sentence.
- Regarding information on bail conditions, it would be extremely useful if provision of this information and any changes to conditions could extend not only to court bail but also for police bail. A huge amount of stress is placed on victims of domestic violence when they don't have information about whether a perpetrator is in prison or is back in the community. If a system could be devised to inform victims and their support workers on the status of police bail, this would go a long way to reassuring victims and increasing their confidence in the justice system and its ability to keep them safe.

- We echo Victim Support NI in suggesting that in addition to providing the information to victims and witnesses throughout the entire process, this information should be delivered in a manner than is accessible and easy to understand for the victim.

Theme 3: Support provisions and special measures (pages 21 – 25)

- It is very encouraging that the strategy seeks to improve understanding of the gaps in support for victims and witnesses, and especially for those who are vulnerable or intimidated. Special measures are not only protective measures for victims of certain crimes, but are also instrumental in achieving best evidence in cases where a victim is at risk of being intimidated either by a defendant and his family / friends, or by the public court setting.
- Women’s Aid wholly supports the inclusion of assessment for special measures within the criminal justice process at the earliest stage, and tailoring these measures to the specific needs of the individual victim. However we would recommend that certain crimes by their very nature require special measures and support, to ensure the safety of the victim, avoid re-traumatising them in a court setting and facilitate them in giving best evidence. Due to the intimate, personal or familial relationship between the victim of domestic violence and perpetrator, it can be exceptionally stressful and intimidating for a victim to be in the same court room as their abuser, and this can affect the victim’s ability to give evidence and decide on whether to proceed with a case. We recommend the mainstreaming of special measures such as the use of live links and partitions in court in any case where there is a danger that an offender may attempt to use the court setting to intimidate or manipulate a victim or witness.
- It is also our view that improved information sharing between agencies and with voluntary sector organisations will be instrumental in supporting victims and witnesses of crime more effectively. There is especially scope to improve information sharing within MARACs. For instance, in England and Wales, section 115 of the Crime and Disorder Act 1998 allows the sharing of information with relevant support organisations where otherwise it might be deemed a breach of an accused’s rights and their presumption of innocence, so long as such disclosure is necessary for the purposes of any provision of the legislation. We strongly recommend that similar legislation should be introduced in Northern Ireland to allow the MARACs to function effectively and to allow the needs and safety of the victim to be adequately supported.
- We note that the document mentions victim support services that are available to help victims through the court experience, such as the Victim Support Witness Service and the NSPCC Young Witness Service for children.

We would like to add that Women's Aid also provides support and advocacy in the court setting for victims of domestic violence.

- Women's Aid would also like to take this opportunity to recommend strongly that specialist domestic violence courts would be an instrumental further step in ensuring the appropriate support for victims of domestic violence engaging in the criminal justice process. Women's Aid would wish to draw the Committee's attention to the excellent work being carried out by the Specialist Domestic Violence Court in Glasgow, Scotland as a model of best practice which could be adapted and adopted in Northern Ireland.

Theme 4: Participation and improved understanding (pages 25 – 27)

- Women's Aid is pleased that a number of recommendations that we have made in previous consultations have been taken on board in the document, including statutory entitlement to a Victim Impact Statement, and improved operational working of compensation schemes. We agree that steps should be taken to embed the Victim Impact Statement in the criminal justice system. As we have stated in previous consultations, there is still no clear, efficient mechanism for conducting Victim Impact Assessments, and in our professional experience there are many instances in which a Victim Impact Assessment is not carried out when it would in fact be beneficial. In domestic violence cases, for example, we have found that in practice many public prosecutors and courts do not request a Victim Impact Statement, and that our keyworkers then have to request them. We believe this to be evidence that Victim Impact Assessments are not yet sufficiently integrated into the criminal justice system, and that more work needs to be done to ensure that Victim Impact Assessments and Statements are fully utilised for the benefit of victims of crime. Statutory entitlement and more clarification on where Victim Impact Statements fit in the justice process will be a significant move towards rectifying these problems.
- Regarding the review of compensation schemes, there is a clear need for simplification of compensation schemes and improved information provision on them. There is a gap in accessibility of compensation information – our local groups have found the procedures to be opaque and difficult to navigate, and this is even more so the case for the victims themselves who have little or no expertise relating to the criminal justice system. In our experience, there is also inconsistency in how solicitors approach the issue of compensation with victims of domestic violence. Some explain a victim's entitlements and how to go about claiming compensation, others do not mention compensation at all. This advice should be given to victims by their

solicitors as a matter of course. Additionally, it would be useful if all PSNI officers involved in a criminal case could signpost to this information as a matter of course.

Theme 5: Collation of information and research on the experiences of victims and witnesses (pages 27 – 29)

- Women's Aid supports proposed further research on the experiences of victims and witnesses in the criminal justice system. We note that the current Northern Ireland Victims and Witnesses Survey does not include domestic and sexual violence-related crimes due to the fact that surveys are conducted via telephone. Whilst we agree with Victim Support NI that it is not appropriate to capture the experiences of victims of these crimes using a cold call telephone survey, the failure to listen to and to record their experiences represents a serious omission in our view. We would urge that future research is conducted via a different means, so that the experiences of victims and witnesses of domestic and sexual violence-related crimes can be recorded and acted upon.
- Women's Aid supports the development of an appropriate methodology for recording the experiences of victims, and our organisation would welcome the opportunity to engage further on this matter. Women's Aid has a wealth of experience and knowledge of how victims and witnesses of domestic violence regard the justice system. We would be eager to engage in the research process with Department of Justice where useful and appropriate.
- In our professional experience, the standard of service provided to victims and witnesses of crime varies from agency to agency as individuals travel through the system. We would suggest therefore that any new research tool developed to monitor victim satisfaction should allow for the victim's experience of each individual agency to be disaggregated.
- Research should also include systems being put in place to accurately record repeat victimisation and patterns of offending, particularly in respect of crimes such as domestic violence. It would also be useful if research & data collection focused on gaining a more in-depth understanding on attrition rates and why victims choose to withdraw from the criminal justice system. This would go a long way towards creating a system that is constantly improving to meet the needs of victims and remaining victim-centred.

14.0 Q10. Are you content that the correct priorities have been identified for the first two years of the strategy?

- There are several actions that we believe should be prioritised to years 1 and 2.
- We would advocate that improving the response outside the formal complaint mechanism (Appendix E, strategy action 7) and within the independent complaint mechanism (Appendix E, strategy action 8) should be prioritised to years 1 and 2.
- We would suggest that strategy action 9, on providing mandatory training to staff in criminal justice organisations, should be amended to expressly include the judiciary.
- Regarding the development of monitoring mechanisms to assess the delivery of services to victims and witnesses (strategy action 11 & 12), it seems logical that this would be taken forward at the beginning of the strategy so that monitoring of the positive changes over the entire 5 years of the strategy can be conducted.
- On strategy action 13, working together to ensure progression of cases between organisations is as seamless as possible, we would submit that this is something that should be an on-going process over the entire 5 years.
- Regarding providing information to victims on bail conditions (strategy action 16), we would strongly recommend that police bail is included in this action, and that timescales for contacting the victim after bail conditions have been issued or changed should be included.
- We strongly urge that the issue of delay (strategy action 30) is prioritised to be improved within years 1 and 2. Delay is the most common cause of distress for the women that we support through the criminal justice system, and addressing this issue is crucial to the meeting of the aims and principles of this strategy and to victim satisfaction.
- We note at strategy action 31 that the Justice Committee has recommended greater use of specialist courts, including domestic violence courts. We join with the Committee in recommending that specialist domestic violence courts be established in Northern Ireland to more effectively deal with domestic violence-related crimes and sufficiently support victims of domestic violence who are engaged in the criminal justice system.

15.0 Q11. Are there any aspects of the strategy that you consider could be made clearer or easier to understand?

- We are of the opinion that the strategy is clear and easy to understand.

16.0 Contact details

For further information about this response please contact:

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