

Remarks at Victim Support Europe Conference

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Patricia MacBride – Chairperson, Victim Support at Court

Good morning everyone. My name is Patricia MacBride and I am the Chair of Victim Support at Court, or V-SAC, a charity based in Dublin which provides court accompaniment services to victims of crime and witnesses in the Irish criminal justice system.

In March of this year we marked the milestone of having provided support and assistance to ten thousand victims and witnesses in the criminal justice system and at that time we launched a new website and a public information campaign to reach out to those who may need our help in future.

In our criminal justice system in Ireland, the Garda Síochána enforce the law, the Director of Public Prosecutions interprets it and the Courts apply it – that is as it should be. Yet in that equation, the victim of crime is often unrepresented and sometimes can feel lost in the process of law. Our role at Victim Support at Court is to empower the victim and assist them in participating in the legal process with an impartial attitude, a guiding hand and a listening ear.

V-SAC has become a vital cog in the criminal justice system in Ireland since it was established in 2005. Victims and witnesses coming into the Courts face a system that's unfamiliar to them. We aim to help them feel supported, to help them understand the process and to give them a safe space where they can take time away from the courtroom and be free to discuss what's happening and have help understanding it.

We provide pre-trial visits to courtrooms, we accompany victims and witnesses during the course of the proceedings and we ensure that appropriate referrals to other support organisations take place as needed.

Reaching the milestone of 10,000 victims and witnesses supported underlines the importance of and demand for what we do. In the past two and a half years alone we have looked after 4,333 victims and witnesses.

Our goal is to ensure that no one who has been a victim of crime feels they are unsupported when they go to court. The public information campaign we launched earlier this year is designed to provide information via our website www.v sac.ie and leaflets and posters have been distributed to every Garda station and public library in Ireland so that people know the service is there and that we can help if they want it.

Victims of Crime in Ireland

A number of positive developments have taken place in recent years in respect of victims of crime in Ireland. A very tangible one, which we in V-SAC avail of every day is the provision of excellent victim and witness facilities in the new Criminal Courts of Justice in Central Dublin. Victims have access to a suite of rooms, solely for their use and away from the general public. Within this suite are a number of private consultation rooms that our staff and volunteers, as well as other victim support organisations use. There is specific accommodation for vulnerable victims and witnesses, a space where families and individuals can come together if they wish and share their respective experiences, kitchen facilities and an assurance of privacy and physical separation from defendants, legal professionals and the media.

The criminal justice system in Ireland has in recent decades acknowledged the role of the victim in criminal proceedings in a tangible way. Crime is a wrong done to the community; and so the State, in the public interest, prosecutes the defendant. This situation, as I have said previously, can leave victims feel excluded or side-lined from the process.

However, legislation now permits the victim of a crime to give evidence on the effect which that crime has had on them. Thus, the individual victim, or in certain situations a family member of a victim of crime, is given the opportunity to give what has become known as a “victim impact statement”. This was legislated for originally in section 5 of the Criminal

Justice Act 1993 and applies to serious criminal offences.¹ Indeed, before the enactment of legislation judicial discretion could be exercised to permit such statements. This is a natural extension of the ancient and historical practice in traditional Brehon Law which was applied in Ireland for many centuries, in which atonement to a victim was at the core of the legal system.

In July 2010 the Department of Justice in Ireland launched an updated Victims Charter and Guide to the Criminal Justice System, written in plain language, from a victim-centred perspective and giving greater recognition to victims and vulnerable witnesses.²

In addition, the Courts Service's Victims Charter aims to cater for the needs of crime victims by providing facilities, information and services in court, such as those we in V-SAC avail of. It also permits, subject to an order of the Court, the use of remote video link to give evidence.³

Recent EU Law developments

There have been important recent developments in EU law. The role of the victim in criminal proceedings is a matter in which the European Union has taken an active role in recent times. Article 82(2) of the Treaty on the Functioning of the European Union makes explicit reference to the rights of victims of crime.

Ireland has exercised its opt-in to the recently adopted EU Directive of the 25th October 2012, establishing minimum standards on the rights, support and protection of victims of crime.⁴ The **Directive** defines a **victim** as meaning:

¹ See O'Malley *Sentencing Law and Practice* (2nd ed Thomson Round Hall 2006).

² See http://www.justice.ie/en/JELR/Pages/Victims_Charter.

³ Available at page 15 of The Victims Charter and Guide to the Criminal Justice System.

⁴ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

- (i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;
- (ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death.⁵

The term "family members" is construed broadly, to include spouses, partners, relatives, siblings and dependants of the victim.⁶ This recognises the ripple effect which a crime can have on the victim and their family circle.

Article 3 of the **Directive** provides that Member States shall take appropriate measures to assist victims to understand and to be understood from the first contact with the State's authorities. The provision of information is a key component of the Directive and will build upon current practice in Ireland.

Article 8 directs that Member States shall ensure that victims and family members, in accordance with their needs, have access to confidential victim support services, free of charge before, during, and after criminal proceedings.

Chapter 4 of the **Directive** refers to the protection and privacy of victims and family members during criminal proceedings by way of court procedures and court accommodation with separate waiting areas for them.

Of course each individual victim has different needs, and **Article 22** provides that Member States shall ensure that victims receive timely and individual assessment to identify specific protection needs, bearing in mind the personal characteristics of the victim, the type or nature of the crime, and the circumstances of the crime. This must be done with the close involvement of the victim, and shall take into account their wishes.

⁵ Article 2(1)(a)(i) and (ii).

⁶ Article 2(1)(b).

Linked to this, is **Article 25(1)** which provides that Member States shall ensure that officials likely to come into contact with victims such as police officers, and courts staff, receive both general and specialist training to increase their awareness of the needs of victims, and to deal with them in an impartial, respectful and professional manner.

Article 25(2) provides that Member States shall also request those responsible for the training of judges and prosecutors involved in criminal proceedings to make available both general and specialist training to increase awareness of judges and prosecutors of the needs of victims.

Implementing the Directive

The challenges presented by implementing the rights enshrined in the directive are challenges that cannot be faced by governments alone. We in V-SAC have built a strong relationship with the Victims of Crime Office of the Department of Justice in Ireland and our primary funder, the Commission for the Support of Victims of Crime.

We also partner with a number of other organisations to take a joined-up approach to victim and witness care – The Dublin Rape Crisis Centre, CARI, One in Four, the Crime Victims Helpline, ADVIC, Support after Homicide, Victim Support Tallaght, Support After Crime, I.T.A.S. and PARC. That network of referral and support is vital.

It is through the development of strong partnerships and networks that V-SAC intends to give concrete expression to the rights enshrined in the Directive and ensure Ireland complies with its obligations in this regard.

We face a challenge in the provision of support services to victims in rural and border communities with northern Ireland. At present V-SAC offers court accompaniment services in the Dublin area only. In the coming year, we intend to build a strategic relationship with Victim Support Northern Ireland to allow both organisations to refer service users in border areas to support services and to share best practice in the field of victim and witness care.

This partnership will enable both organisations to co-operate in a very practical way and in a seamless manner.

In the Republic of Ireland, there is presently no system of accreditation or training for volunteers working with victims and witnesses in the criminal justice system. V-SAC wants to develop such training in order to assure quality and standardisation of service provision so that all those who come into contact with the organisation are treated consistently and compassionately. In making this training available to other voluntary/community organisations, to statutory agencies and through Continuous Professional Development or CPD training for the legal profession, we will be further advancing the quality of care available in a consistent way.

In tandem with this, the development of an e-learning programme will reduce the costs of training delivery in allowing volunteers and staff to access training materials remotely and complete assignments. This will allow us to recruit volunteers in remote and rural areas of the island of Ireland. Once training is completed, these volunteers will then provide support services to victims in regional towns and cities where no service currently exists.

Working in emotive and challenging settings with victims can be a difficult experience for volunteers. Whilst we provide formal supervision, or counselling-type support, to staff and volunteers when required, often what is required is simply peer support where volunteers can share their experiences of supporting victims, ask questions regarding the approaches taken and be assured of the appropriateness of their interventions. A challenge facing the organisation is that, in relying on volunteers, we are then asking those individuals to commit further time to avail of peer support and travel to central/regional locations for that to take place. This puts a strain on the human and financial resources of the organisation.

The development of an online peer support network will reduce those strains on resources. It will allow for volunteers and staff to interact from their homes/offices, provide a structured framework, share best practice across the island and enhance the quality of support provided to victims.

We also intend to undertake focussed research on achieving best evidence with vulnerable victims and witnesses in the criminal justice system. It is our intention that the outcomes and recommendations of this research will enhance the quality of care and support provided to vulnerable individuals, whose rights are expressly protected and advocated in the Directive.

The ultimate beneficiaries of the project will be victims of crime throughout the island of Ireland who will benefit from improved, standardised, accredited training given to volunteers, service providers and the legal profession. Further, development of cross-border co-operation and training will ensure appropriate geographic spread of services to areas outside of Dublin and ensure victims in these areas are able to avail of services as needed.

Why are we doing this?

The expansion of services to border communities meets the objectives of Paragraph 37 of the Directive which states that “Support should be provided through a variety of means, without excessive formalities and through a sufficient geographical distribution across the Member State to allow all victims the opportunity to access such services.”

Accredited training and peer support meets the objectives of Article 24(4) of the Directive which states: “Member States shall encourage initiatives enabling those providing victim support and restorative justice services to receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner.”

In undertaking research we will address Article 38 of the Directive which states that “Persons who are particularly vulnerable or who find themselves in situations that expose them to a particularly high risk of harm...should be provided with specialist support and legal protection.”

CPD training addresses Paragraph 61 of the Directive which states that: “training should be promoted for lawyers, prosecutors and judges and for practitioners who provide victim

support...This requirement should include training on the specific support services to which victims should be referred or specialist training where their work focuses on victims with specific needs and specific psychological training, as appropriate.”

Cross-border cooperation and referral networks further the commitment of Article 17(1) of the Directive which commits member states “to minimise the difficulties faced where the victim is a resident of a Member State other than that where the criminal offence was committed.”

Conclusion

In summary then, whilst the implementation of the Directive presents challenges to member states and to us as practitioners working with victims, such challenges, I believe, are far outweighed by opportunity.

We have the opportunity to build upon the expertise of our respective organisations, to improve the support we offer, work collaboratively with one another, expand services and tackle issue such as geographical boundaries and social exclusion that prevent victims who need help from coming forward.

We have the opportunity to hold governments to account and ensure that they fulfil their commitments as Member States under the Directive. We can ensure that they do so by offering ourselves as models of good practice and by developing and enhancing enduring cross-sectoral partnerships where the rights and needs of victims are the central focus.

Finally we have the opportunity to ensure that the needs of victims are placed at the heart of justice systems throughout Europe and that we, collectively and individually, reaffirm our societal commitment to atonement, satisfaction and reparation.