## UNITED KINGDOM | Developments on the implementation of victim assistance mechanisms

### DEFINITION OF VICTIM

In England and Wales a victim is defined as somebody who has directly been affected by a criminal offence. A victim is not a party to the criminal proceedings, and will act as a witness.

Concerning Scotland, there is no specific definition of the term victim. The revised (2015) Code of Practice for Victims of Crime supports the description of the Victims' Directive and it is agreed that a natural person or family member of a deceased person can be a victim.
Extended family such as grandparents, aunts, uncles, nephews and nieces are identified as indirect victims in Scotland.

### VICTIM SUPPORT

Victim Support is a key organisation in England and Wales. It has been in existence for over thirty eight years. Victim Support is an independent charity that relies heavily on specially trained volunteers to deliver its services. It provides support across England and Wales to both victims and witnesses. Victim Support has been a partner in the criminal justice system.

The Crown Prosecution Service (CPS) also works to protect the public and support victims and witnesses. They also have a website which contains documents that are valuable for victims and practitioners.

Victim Support Scotland provides support and information services to victims and witnesses of crime in Scotland. It is present in each local authority area. Victim Support Scotland accepts referrals from anyone, including the victim directly.

Other agencies that provide victim support in Scotland focus either on particular groups of victims or types of offences, for example: Women's Aid (female victims of domestic abuse), Rape Crisis (female victims of sexual assault and rape), AMIS - Abused Men in Scotland (male victims of domestic abuse), and PETAL (families and friends of murder and suicide victims).

In Victim Support Northern Ireland the support is provided to victims and witnesses across all of Northern Ireland in offices, courthouses and outreach centres. It is a charity which helps people affected by crime since 1981.

### RESTORATIVE JUSTICE

The Restorative Justice Council is a key partner in the area of restorative justice and sets best practice, works on standards

and accreditations, maintains a register of qualified practitioners, and supports the development of restorative justice.
The goal is to make restorative justice a safe and effective process and to support the development of restorative justice.

Restorative Justice is available to all victims, although the provisions are unequal in terms of access in different regions. A debate in England and Wales is in place relating to the use of restorative justice in domestic violence cases.
In Scotland, victims are only offered involvement in restorative justice practices whereby the offender has first been approached and has agreed to participate. The age of the offender can also be exclusion criteria. Youth offending restorative justice processes are well established, but there only a few local authority areas in Scotland that have restorative justice processes for adult offenders. In addition, restorative justice is mostly used for crimes 'of a more minor nature'.

## VICTIMS RESIDENT IN ANOTHER MEMBER STATE

Any victim who becomes a victim of crime in the UK is treated equally as a victim of crime as it would be a UK citizen.

In the UK, witnesses who are outside of the UK may provide evidence by live television link. This also enables victims who are not resident in the UK to give evidence at a trial in their case. The local police have access to professional interpreters who can quickly translate, in case needed.

Prosecutors may obtain and use information and evidence from other countries in accordance to specific provisions.

## INDIVIDUAL NEEDS ASSESSMENT AND VULNERABLE GROUPS

In England, when somebody reports a crime, the police are required to do an individual needs assessment, that will determine whether the victims is vulnerable or intimidated and thus needs special measures, or whether the victim is entitled to other enhanced entitlements because of the seriousness of the crime. Someone who is identified as vulnerable through the individual needs assessment has access to special measures: for example, the right to more and quicker information from the police; and to more protection during court proceedings.

In Scotland, an individual needs assessment should be made by either the prosecutor or the defense of witnesses who are not automatically deemed to be vulnerable. This should determine whether the person

is likely to be a vulnerable witness and, if so, what special measures they should adopt.

The explicit purpose of the assessment seems to be the vulnerability of the witness. The legislation does not specify at which point the assessment should be made.

Some concerns were raised about the procedure and timing of the assessments. It may be questioned whether or not an assessment by the Crown Office & Procurator Fiscal Service (COPFS) is conducted early enough to be seen as timely and to be able to provide specific protection measures throughout the process.

Underage victims, victims of domestic/sexual violence, victims with disabilities, victims at risk of intimidation), victims of human trafficking and victims of stalking are considered vulnerable in the UK.

## TRAINING OF PRACTITIONERS

In the UK, the legislation refers to training of those who will be involved with victims.

A document entitled "Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures", produced by the Ministry of Justice, specifically mentions training.

It is apparent that work is done to train practitioners, as demonstrated in the statement by Victim Support, which indicates support for a new initiative in the defense lawyers who cross-examine vulnerable witnesses will be required to have specialist training.

The Restorative Justice Council provides resources on best practices and training.

In Scotland, the most important topics for police officers dealing with victims are the impact of crime on victims, the impact of giving evidence at court, what services are available to victims and the role in victim support. For judges and prosecutors, the type of training can include cooperation with victim support services.

There is cooperation in place between Victim Support Scotland and the criminal justice system for training on victims' issued. The victim support organisation has worked with several criminal justice agencies to include victim awareness in their training packages. This is mandatory for all new recruits. They also provide training on victim awareness and the rights of victims to court officers and they are currently training Justices of the Peace. They are also involved in training members of the Parole Board for Scotland on victim

awareness and how the new legislation should be implemented, as they have contact with victims as part of the Victim Notification Scheme.

Victim support volunteers have basic training in dealing with victims and more specialised training for dealing with victims of sexual or domestic abuse, and working with those bereaved by murder is also provided.

## COOPERATION AND COORDINATION OF SERVICES

The lack of coordination between different agencies operating in victim assistance was referred to as a challenge.
It was suggested to improve the consistency and coordination in systems that connect information between all the partners in the criminal justice system.

The Scottish Government are keen to ensure legislation is effectively implemented through best practice and to this extent have working groups established to look at the area of practice of legislation.

In England, although the provisions in legislation are mostly carried out, there are rights that do not work optimally in practice.

The information contained in this Factsheet was retrieved from interviews conducted under Project IVOR with experts and from the National Report of *Project Protecting Victims' Rights in the EU: the theory and practice of diversity of treatment during the criminal trial* (available at http://www.victimsprotection.eu/)

More information at www.apav.pt/ivor